

Federal Communications Commission

DA 93-1236

FEDERAL COMMUNICATIONS COMMISSION

Before the
Federal Communications Commission
Washington, D.C. 20554

Roy J. Stewart
Chief, Mass Media Bureau

In re:

Complaint of Central Missouri State University against
Douglas Cable Communications

CSR-3915-M
MO0843

Request for Carriage

MEMORANDUM OPINION AND ORDER

Adopted: October 12, 1993; Released: October 25, 1993

By the Chief, Mass Media Bureau:

1. On July 8, 1993, a petition on behalf of Central Missouri State University, licensee of Station KMOS-TV (Educ., Ch. 6), Sedalla, Missouri, was filed with the Commission claiming that Douglas Cable Communications ("Douglas"), operator of a cable television system serving Deepwater, Missouri, had declined to carry the station, even though the Grade B contour of KMOS-TV encompasses the system's principal headend at north latitude 38°46'22" and west longitude 93°15'38", and the station is therefore a "local" signal within the meaning of §5 of the Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, 106 Stat. 1460 (1992). KMOS-TV requests that the Commission not only order Douglas to carry its signal, but also order that the system carry it on channel 6, the channel on which it broadcasts over-the-air. No opposition to this petition has been filed.¹

2. KMOS-TV's petition establishes that it is entitled to carriage on the Deepwater cable system, and it has requested carriage on its over-the-air broadcast channel, as it is permitted to do under §5 of the 1992 Cable Act. Since no other pleadings have been filed in this matter, the complaint filed July 8, 1993, by Central Missouri State University IS GRANTED. In accordance with §615(j)(3) (47 U.S.C. 535) of the Communications Act of 1934, as amended, and Douglas Cable Communications IS ORDERED to commence carriage of KMOS-TV on cable channel 6 forty-six (46) days from the release date of this Order. This action is taken by the Chief, Mass Media Bureau, pursuant to authority delegated by §0.283 of the Commission's Rules.

¹ On April 8, 1993, the United States District Court of the District of Columbia issued a decision in the litigation involving *Turner Broadcasting System, Inc., et al., v. Federal Communications Commission*, Civil Action No. 92-2247 (D.D.C. April 8,

1993), which upheld the provisions of the 1992 Cable Act that had been challenged as violating plaintiffs' constitutional rights and terminated the 120 day *Standstill Order* previously issued in this case.

FEDERAL COMMUNICATIONS COMMISSION 3

Before the
Federal Communications Commission
Washington, D.C. 20554

Roy J. Stewart
Chief, Mass Media Bureau

In re:

Complaint of CSR-3916-M
Central Missouri MO0168
State University against
Douglas Cable Communications

Request for Carriage

MEMORANDUM OPINION AND ORDER

Adopted: October 12, 1993; Released: November 1, 1993

By the Chief, Mass Media Bureau:

1. On July 8, 1993, a petition on behalf of Central Missouri State University, licensee of Station KMOS-TV (Educ., Ch. 6), Sedalia, Missouri, was filed with the Commission claiming that Douglas Cable Communications ("Douglas"), operator of a cable television system serving Gilliam, Missouri, had declined to carry the station, even though the Grade B contour of KMOS-TV encompasses the system's principal headend at north latitude 39°00'16" and west longitude 93°14'00", and the station is therefore a "local" signal within the meaning of §5 of the Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, 106 Stat. 1460 (1992). KMOS-TV requests that the Commission not only order Douglas to carry its signal, but also order that the system carry it on channel 6, the channel on which it broadcasts over-the-air. No opposition to this petition has been filed.¹

2. KMOS-TV's petition establishes that it is entitled to carriage on the Gilliam cable system, and it has requested carriage on its over-the-air broadcast channel, as it is permitted to do under §5 of the 1992 Cable Act. Since no other pleadings have been filed in this matter, the complaint filed July 8, 1993, by Central Missouri State University IS GRANTED, in accordance with §615(j)(3) (47 U.S.C. 535) of the Communications Act of 1934, as amended, and Douglas Cable Communications IS ORDERED to commence carriage of KMOS-TV on cable channel 6 forty-six (46) days from the release date of this Order. This action is taken by the Chief, Mass Media Bureau, pursuant to authority delegated by §0.283 of the Commission's Rules.

¹ On April 8, 1993, the United States District Court of the District of Columbia issued a decision in the litigation involving *Turner Broadcasting System, Inc., et al., v. Federal Communications Commission*, Civil Action No. 92-2247 (D.D.C. April 8,

1993), which upheld the provisions of the 1992 Cable Act that had been challenged as violating plaintiffs' constitutional rights and terminated the 120 day *Standsstill Order* previously issued in this case.

Federal Communications Commission

DA 93-1293

FEDERAL COMMUNICATIONS COMMISSION

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Before the
Federal Communications Commission
Washington, D.C. 20554

Roy J. Stewart
Chief, Mass Media Bureau

In re:

Complaint of Central Missouri
State University against
Douglas Cable Communications

CSR-3923-M
MO0827

Request for Carriage

MEMORANDUM OPINION AND ORDER

Adopted: October 20, 1993; Released: November 9, 1993

By the Chief, Mass Media Bureau:

1. On July 13, 1993, a petition on behalf of Central Missouri State University, licensee of Station KMOS-TV (Educ. Ch. 6), Sedalia, Missouri, was filed with the Commission claiming that Douglas Cable Communications ("Douglas"), operator of a cable television system serving Corder, Missouri, had declined to carry the station, even though the Grade B contour of KMOS-TV encompasses the system's principal headend at north latitude 39°38'26" and west longitude 93°05'54" and the station is therefore a "local" signal within the meaning of §5 of the Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, 106 Stat. 1460 (1992). KMOS-TV requests that the Commission not only order Douglas to carry its signal, but also order that the system carry it on channel 6, the channel on which it broadcasts over-the-air. No opposition to this petition has been filed.¹

2. KMOS-TV's petition establishes that it is entitled to carriage on the Corder cable system, and it has requested carriage on its over-the-air broadcast channel, as it is permitted to do under Section 5 of the 1992 Cable Act. Since no other pleadings have been filed in this matter, the complaint filed July 8, 1993, by Central Missouri State University IS GRANTED. In accordance with §615(j)(3) (47 U.S.C. 535) of the Communications Act of 1934, as amended, and Douglas Cable Communications IS ORDERED to commence carriage of KMOS-TV on cable channel 6 forty-six (46) days from the release date of this Order. This action is taken by the Chief, Mass Media Bureau, pursuant to authority delegated by §0.283 of the Commission's Rules.

¹ On April 8, 1993, the United States District Court of the District of Columbia issued a decision in the litigation involving *Turner Broadcasting System, Inc., et al., v. Federal Communications Commission*, Civil Action No. 93-2247 (D.D.C. April 8,

1993), which upheld the provisions of the 1992 Cable Act that had been challenged as violating plaintiffs' constitutional rights and terminated the 120 day *Standstill Order* previously issued in this case.

Before the
Federal Communications Commission
Washington, D.C. 20554

In re:

Complaint of Central Missouri CSR-3951-M
State University against MO0911
Friendship Cable of Missouri

Request for Carriage

MEMORANDUM OPINION AND ORDER

Adopted: December 13, 1993; Released: January 25, 1994

By the Chief, Mass Media Bureau

1. On July 6, 1993, a petition on behalf of Central Missouri State University, licensee of Station KMOS-TV (Educ., Ch. 6), Sedalia, Missouri, was filed with the Commission claiming that Friendship Cable of Missouri ("Friendship"), operator of a cable television system serving Greenview, Missouri, had declined to carry the station, even though the Grade B contour of KMOS-TV encompasses the system's principal headend at Greenview¹ and is therefore a "local" signal within the meaning of Section 5 of the Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, 106 Stat. 1460 (1992). KMOS-TV requests that the Commission not only order Friendship to carry its signal on the cable system, but also order that the system carry it on Channel 6, the channel on which it broadcasts over-the-air.

2. On August 5, 1993, Friendship filed an opposition to this complaint, in which it acknowledges that KMOS-TV meets the 1992 Cable Act's tests as a qualified NCE station, because the system is on the edge of KMOS-TV's Grade B contour and located within 50 miles of Sedalia. However, Friendship contends that KMOS-TV failed to deliver a good quality signal to its headend. It argues, therefore, that it is not required to carry KMOS-TV's signal, pursuant to Section 615(g)(4) of the 1992 Cable Act. In support of its contention, Friendship submits a statement by its field service engineer, Bob Green, that indicates that KMOS-TV delivers an off-air signal to Friendship's headend processing equipment at Greenview that is -44 dBm. Accordingly, Friendship asserts that KMOS-TV does not qualify for carriage on its system serving Greenview, and that its request for carriage should be dismissed.

3. On September 7, 1993, KMOS-TV filed a response to Friendship's opposition to its complaint. In its response, KMOS-TV states that as of September 1, 1993, it has failed to receive a response from Friendship regarding its request of June 3, 1993, to be furnished with information regard-

ing its geographical coordinates and the off-air broadcast stations carried upon its system serving Greenview. In the absence of this information, KMOS-TV states that it has attempted to analyze the data submitted by Friendship and feels that the field survey analysis survey it submitted is, at best, incomplete. Further, KMOS-TV argues that Friendship has not shown that it conducted the field analysis tests in accordance with the practices that the cable system uses to receive and process other off-air stations which are currently being carried. KMOS-TV states that it is probable that different engineering practices were used to test and process the reception level of its signal, noting that the antenna was put on a forty-foot tower and that the field survey was not dated and did not indicate the orientation of the reception antenna for KMOS-TV's signal, and that there were no periodic measurements of the signal.

4. Friendship's objection concerning KMOS-TV's signal strength does not follow generally acceptable engineering practices to determine what constitutes a good quality signal. Although the 1992 Cable Act failed to set a standard for noncommercial educational ("NCE") stations, it did adopt a standard for determining the availability of VHF and UHF commercial stations at a cable system's headend. To establish the availability of a VHF commercial station signal, the 1992 Cable Act set out a standard of -49 dBm at a cable system's headend. A standard of -45 dBm was established for UHF commercial stations signals. Since these standards address the issue of availability of a station signal, consistent with Congress' guidance with respect to VHF and UHF commercial station availability, we see no reason not to utilize the same standards as *prima facie* tests to initially determine whether a NCE station provides cable system with a good quality signal. Generally, if the test results for VHF stations are less than -55 dBm, we believe that at least four readings must be taken over a two hour period. Where the initial readings are between -51 dBm and -49 dBm, inclusive, we believe that the reading should be taken over a 24-hour period, with measurements no more than four hours apart to establish reliable test results.² In addition to the information required by the rules to be furnished to the affected station when there is dispute over signal level measurements,³ cable operators are expected to employ sound engineering measurement practices. Therefore, signal strength surveys should, at a minimum, include the following: 1) specific make and model numbers of the equipment used, as well as its age and most recent date(s) of calibration; 2) description(s) of the characteristics of the equipment used such as antenna range and radiation patterns; 3) height of the antenna above ground level and whether the antenna was properly oriented; and 4) weather conditions and time of day when the tests were done. When measured against these criteria, we conclude that the information submitted by Friendship is insufficient to demonstrate that KMOS-TV does not provide a good quality signal to the cable system's principal headend.

¹ We note that Friendship has not provided its headend coordinates to KMOS-TV as required by Section 76.54(b) of the Rules, despite KMOS-TV's letter of December 23, 1992 requesting carriage. As such, we accept petitioner's conclusion that Friendship's headend for this system is located at Greenview, Missouri.

² Generally, if the test results for UHF stations are less than

-51 dBm we believe that at least four readings must be taken over a two hour period. Where the initial readings are between -51 dBm and -49 dBm, inclusive, we believe that the reading should be taken over a 24 hour period with measurements no more than four hours apart to establish reliable test results.

³ See §76.61 of the Commission's Rules.

47 C.F.R. § 76.55(b). CMSU has stated its belief that KMOS-TV meets the definition of local. Further, Friendship Cable notes that although it initially determined that Niangua Bridge's reference point was not within 50 miles of the cable system's principal headend, it later concluded that its cable system is "on the edge" of KMOS-TV's Grade B contour and the 50-mile zone.⁴

8. We find that Friendship Cable has not met its burden of demonstrating the lack of a good quality signal because it has not shown that it has used standard engineering practices. To determine whether a certain level of signal is present, it is necessary to submit a series of measurements, not just one. Generally, if the test results are less than -55 dBm for a VHF station, at least four readings must be taken over a two-hour period. Where the initial readings are between -55 dBm and -49 dBm, inclusive, the readings should be taken over a 24-hour period, with measurements no more than 4 hours apart to establish reliable test results. In addition to the information required by our rules to be furnished to the affected station when there is a dispute over signal level measurements, see 47 C.F.R. § 76.61, cable operators are expected to employ sound engineering measurement practices. Signal strength surveys, therefore, should include, at a minimum, the following: 1) specific make and model numbers of the equipment used, as well as its age and most recent date(s) of calibration; 2) description(s) of the characteristics of the equipment used, such as antenna ranges and radiation patterns; 3) height of the antenna above ground level and whether the antenna was properly oriented; and 4) weather conditions and time of day when the tests were done. When measured against these criteria, the data submitted by Friendship Cable is insufficient to demonstrate that KMOS-TV's signal is not of "good quality" at the cable system's headend. See, e.g., *Complaint of Channel 5 Public Broadcasting, Inc. against WestStar Cable*, CSR-3799-M, DA-93-896 (released July 23, 1993).

9. CMSU has submitted a December 23, 1992 letter which it sent to Friendship Cable requesting carriage on Channel 6. According to Section 615(g)(5), a qualified local noncommercial educational station carried pursuant to must-carry requirements must appear on the cable system channel number on which it is broadcast over-the-air, or on the channel on which it was carried on July 19, 1985, at the election of the station, or on such other channel as is mutually agreed upon by the station and the cable operator. 47 U.S.C. § 535(g)(5); 47 C.F.R. § 76.57(b). Because CMSU has elected that KMOS-TV be carried on its over-the-air channel, Channel 6, we will grant its request that the Commission order Friendship Cable to carry KMOS-TV on Channel 6.

10. In view of the above, the complaint filed on July 8, 1993 by Central Missouri State University, licensee of KMOS-TV, Sedalia, Missouri (CSR-3960-M) IS GRANTED, in accordance with Section 615(j)(3) of the Communications Act of 1934, as amended, (47 U.S.C. § 535). Furthermore, Friendship Cable of Missouri IS ORDERED to commence carriage of KMOS-TV on Channel 6 within forty-five (45) days from the release date of this Order on its system serving Niangua Bridge, Missouri, unless Friend-

ship Cable submits, to the Commission and to CMSU, within fifteen (15) days of the release date of this Order, the engineering data required herein to support Friendship Cable's assertion of poor signal quality from KMOS-TV at Friendship Cable's principal headend.⁵ This action is taken by the Deputy Chief, Cable Services Bureau, pursuant to authority delegated by Section 0.321 of the Commission's rules, 47 C.F.R. § 0.321.

FEDERAL COMMUNICATIONS COMMISSION

William H. Johnson
Deputy Chief, Cable Services Bureau

⁴ Friendship Cable apparently does not dispute that KMOS-TV's Grade B service contour encompasses the principal headend of the cable system.

⁵ We believe that 15 days is sufficient time for Friendship

Cable to perform the required tests. Guidance regarding what constitutes standard engineering practices has been available since July 23, 1993. See *Channel 5 Public Broadcasting, Inc.*, *supra*.

Before the
Federal Communications Commission
Washington, D.C. 20554

In re:

Complaint of Central Missouri State University against
Friendship Cable of Missouri

CSR-3952-M

Request for Carriage

MEMORANDUM OPINION AND ORDER

Adopted: May 5, 1994;

Released: June 15, 1994

By the Chief, Cable Services Bureau

1. On July 8, 1993, a petition on behalf of Central Missouri State University, licensee of Station KMOS-TV (Educ., Ch. 6), Sedalia, Missouri, was filed with the Commission claiming that Friendship Cable of Missouri ("Friendship"), operator of a cable television system serving Climax Springs/Coffman Bend, Missouri, had declined to carry the station, even though the Grade B contour of KMOS-TV encompasses the system's principal headend at Climax Springs/Coffman Bend¹ and is therefore a "local" signal within the meaning of §5 of the Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, 106 Stat. 1460 (1992). KMOS-TV requests that the Commission not only order Friendship to carry its signal on the cable system, but also order that the system carry it on Channel 6, the channel on which it broadcasts over-the-air.

2. On August 5, 1993, Friendship filed an opposition to this complaint, in which it acknowledges that KMOS-TV meets the 1992 Cable Act's tests as a qualified NCE station, because the system is on the edge of KMOS-TV's Grade B contour and located within 50 miles of Sedalia. However, Friendship contends that KMOS-TV failed to deliver a good quality signal to its headend. It argues, therefore, that it is not required to carry KMOS-TV's signal, pursuant to §615(g)(4) of the 1992 Cable Act. In support of its contention, Friendship submits a statement by its field service engineer, Bob Green, that indicates that KMOS-TV delivers an off-air signal to Friendship's headend processing equipment at Coffman Bend that is -4dBmV(-53dBm). Accordingly, Friendship asserts that KMOS-TV does not qualify for carriage on its system serving Climax Springs/Coffman Bend, and that its request for carriage should be dismissed.

3. Friendship's objection concerning KMOS-TV's signal strength does not follow generally acceptable engineering practices to determine what constitutes a good quality signal. Although the 1992 Cable Act failed to set a standard for noncommercial educational ("NCE") stations, it did

adopt a standard for determining the availability of VHF and UHF commercial stations at a cable system's headend. To establish the availability of a VHF commercial station's signal, the 1992 Cable Act set out a standard of -49dBm at a cable system's headend. A standard of -45dBm was established for UHF commercial stations signals. Since these standards address the issue of availability of a station's signal, consistent with Congress' guidance with respect to VHF and UHF commercial station availability, we see no reason not to utilize the same standards as *prima facie* tests to initially determine whether a NCE station provides a cable system with a good quality signal. Generally, if the test results for VHF stations are less than -55dBm, we believe that at least four readings must be taken over a two hour period. Where the initial readings are between -55dBm and -49dBm, inclusive, we believe that the readings should be taken over a 24-hour period, with measurements no more than four hours apart to establish reliable test results.

4. In addition to the information required by our rules to be furnished to the affected station when there is a dispute over signal level measurements,² cable operators are expected to employ sound engineering measurement practices. Therefore, signal strength surveys should, at a minimum, include the following: 1) specific make and model numbers of the equipment used, as well as its age and most recent date(s) of calibration; 2) description(s) of the characteristics of the equipment used such as antenna ranges and radiation patterns; 3) height of the antenna above ground level and whether the antenna was properly oriented; and 4) weather conditions and time of day when the tests were done. When measured against these criteria, we conclude that the information submitted by Friendship is insufficient to demonstrate that KMOS-TV does not provide a good quality signal to the cable system's principal headend.

5. Accordingly, the complaint filed July 8, 1993, by Central Missouri State University IS GRANTED in accordance with §615(j)(3) (47 U.S.C. §535) of the Communications Act of 1934, as amended, and Friendship Cable of Missouri IS ORDERED to commence carriage of Station KMOS-TV, Sedalia, Missouri, on channel 6 on its cable television system serving Climax Springs/Coffman Bend, Missouri, forty-five (45) days from the release date of this Order unless Friendship submits the engineering data required herein to support its assertion of poor signal quality at its principal headend. This action is taken by the Chief, Cable Services Bureau, pursuant to authority delegated by §0.321 of the Commission's Rules.

FEDERAL COMMUNICATIONS COMMISSION

William H. Johnson
Deputy Chief, Cable Services Bureau

¹ We note that Friendship has not provided its headend coordinates to KMOS-TV as required by §76.58(b) of the Rules, despite KMOS-TV's letter of December 23, 1992 requesting carriage. As such, we accept petitioner's conclusion that Friend-

ship's headend for this system is located at Climax Springs, Missouri.

² See §76.61 of the Commission's Rules.

Before the
Federal Communications Commission
Washington, D.C. 20554

In re:

Complaint of Central Missouri State University against
Friendship Cable of Missouri

CSR-3953-M
MO0928

Request for Carriage

MEMORANDUM OPINION AND ORDER

Adopted: May 5, 1994;

Released: May 31, 1994

By the Chief, Cable Services Bureau

1. On July 8, 1993, a petition on behalf of Central Missouri State University, licensee of Station KMOS-TV (Educ., Ch. 6), Sedalia, Missouri, was filed with the Commission claiming that Friendship Cable of Missouri ("Friendship"), operator of a cable television system serving Ivy Bend, Missouri, had declined to carry the station, even though the Grade B contour of KMOS-TV encompasses the system's principal headend at Ivy Bend¹ and is therefore a "local" signal within the meaning of §5 of the Cable Television Consumer Protection and Competition Act of 1992. Pub. L. No. 102-385, 106 Stat. 1460 (1992). KMOS-TV requests that the Commission not only order Friendship to carry its signal on the cable system, but also order that the system carry it on Channel 6, the channel on which it broadcasts over-the-air.

2. On August 5, 1993, Friendship filed an opposition to this complaint, in which it acknowledges that KMOS-TV meets the 1992 Cable Act's tests as a qualified NCE station, because the system is on the edge of KMOS-TV's Grade B contour and located within 50 miles of Sedalia. However, Friendship contends that KMOS-TV failed to deliver a good quality signal to its headend. It argues, therefore, that it is not required to carry KMOS-TV's signal, pursuant to §615(g)(4) of the 1992 Cable Act. In support of its contention, Friendship submits a statement by its field service engineer, Bob Green, that indicates that KMOS-TV delivers an off-air signal to Friendship's headend processing equipment at Ivy Bend that is -2dBmV(-51dBm). Accordingly, Friendship asserts that KMOS-TV does not qualify for carriage on its system serving Ivy Bend, and that its request for carriage should be dismissed.

3. Friendship's objection concerning KMOS-TV's signal strength does not follow generally acceptable engineering practices to determine what constitutes a good quality signal. Although the 1992 Cable Act failed to set a standard for noncommercial educational ("NCE") stations, it did adopt a standard for determining the availability of VHF and UHF commercial stations at a cable system's headend.

To establish the availability of a VHF commercial station's signal, the 1992 Cable Act set out a standard of -49 dBm at a cable system's headend. A standard of -45 dBm was established for UHF commercial stations signals. Since these standards address the issue of availability of a station's signal, consistent with Congress' guidance with respect to VHF and UHF commercial station availability, we see no reason not to utilize the same standards as *prima facie* tests to initially determine whether a NCE station provides a cable system with a good quality signal. Generally, if the test results for VHF stations are less than -55 dBm, we believe that at least four readings must be taken over a two hour period. Where the initial readings are between -55 dBm and -49 dBm, inclusive, we believe that the readings should be taken over a 24-hour period, with measurements no more than four hours apart to establish reliable test results.

4. In addition to the information required by our rules to be furnished to the affected station when there is a dispute over signal level measurements,² cable operators are expected to employ sound engineering measurement practices. Therefore, signal strength surveys should, at a minimum, include the following: 1) specific make and model numbers of the equipment used, as well as its age and most recent date(s) of calibration; 2) description(s) of the characteristics of the equipment used such as antenna ranges and radiation patterns; 3) height of the antenna above ground level and whether the antenna was properly oriented; and 4) weather conditions and time of day when the tests were done. When measured against these criteria, we conclude that the information submitted by Friendship is insufficient to demonstrate that KMOS-TV does not provide a good quality signal to the cable system's principal headend.

5. Accordingly, the complaint filed July 8, 1993, by Central Missouri State University IS GRANTED in accordance with §615(j)(3)(47 U.S.C. §535) of the Communications Act of 1934, as amended, and Friendship Cable of Missouri IS ORDERED to commence carriage of Station KMOS-TV, Sedalia, Missouri, on channel 6 on its cable television system serving Ivy Bend, Missouri, forty-five (45) days from the release date of this Order unless Friendship submits the engineering data required herein to support its assertion of poor signal quality at its principal headend. This action is taken by the Chief, Cable Services Bureau, pursuant to authority delegated by §0.321 of the Commission's Rules.

FEDERAL COMMUNICATIONS COMMISSION

William H. Johnson
Deputy Chief, Cable Services Bureau

¹ We note that Friendship has not provided its headend coordinates to KMOS-TV as required by §76.58(b) of the Rules, despite KMOS-TV's letter of December 23, 1992 requesting car-

riage. As such, we accept petitioner's conclusion that Friendship's headend for this system is located at Ivy Bend, Missouri.

² See §76.61 of the Commission's Rules.

Before the
Federal Communications Commission
Washington, D.C. 20554

In re:

Complaint of Central Missouri
State University against
Friendship Cable of Missouri

CSR-3954-M

Request for Carriage

MEMORANDUM OPINION AND ORDER

Adopted: December 13, 1993; Released: January 18, 1994

By the Chief, Mass Media Bureau

1. On July 8, 1993, a petition on behalf of Central Missouri State University, licensee of Station KMOS-TV (Educ. Ch. 6), Sedalia, Missouri, was filed with the Commission claiming that Friendship Cable of Missouri ("Friendship"), operator of a cable television system serving Roach, Missouri, had declined to carry the station, even though the Grade B contour of KMOS-TV encompasses the system's principal headend at Roach¹ and is therefore a "local" signal within the meaning of Section 5 of the Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, 106 Stat. 1460 (1992). KMOS-TV requests that the Commission not only order Friendship to carry its signal on the cable system, but also order that the system carry it on Channel 6, the channel on which it broadcasts over-the-air.

2. On August 5, 1993, Friendship filed an opposition to this complaint, in which it acknowledges that KMOS-TV meets the 1992 Cable Act's tests as a qualified NCE station, because the system is on the edge of KMOS-TV's Grade B contour and located within 50 miles of Sedalia. However, Friendship contends that KMOS-TV failed to deliver a good quality signal to its headend. It argues, therefore, that it is not required to carry KMOS-TV's signal, pursuant to Section 615(g)(4) of the 1992 Cable Act. In support of its contention, Friendship submits a statement by its field service engineer, Bob Green, that indicates that KMOS-TV delivers an off-air signal to Friendship's headend processing equipment at Roach that is -8dBm. Accordingly, Friendship asserts that KMOS-TV does not qualify for carriage on its system serving Roach, and that its request for carriage should be dismissed.

3. On September 7, 1993, KMOS-TV filed a response to Friendship's opposition to its complaint. In its response, KMOS-TV states that as of September 1, 1993, it has failed to receive a response from Friendship regarding its request

of June 3, 1993, to be furnished with information regarding its geographical coordinates and the off-air broadcast stations carried upon its system serving Roach. In the absence of this information, KMOS-TV states that it has attempted to analyse the data submitted by Friendship and feels that the field survey analysis survey it submitted is, at best, incomplete. Further, KMOS-TV argues that Friendship has not shown that it conducted the field analysis tests in accordance with the practices that the cable system uses to receive and process other off-air stations which are currently being carried. KMOS-TV states that it is probable that different engineering practices were used to test and process the reception level of its signal, noting that the antenna was put on a forty-foot tower and that the field survey was not dated and did not indicate the orientation of the reception antenna for KMOS-TV's signal, and that there were no periodic measurements of the signal.

4. Friendship's objection concerning KMOS-TV's signal strength does not follow generally acceptable engineering practices to determine what constitutes a good quality signal. Although the 1992 Cable Act failed to set a standard for noncommercial educational ("NCE") stations, it did adopt a standard for determining the availability of VHF and UHF commercial stations at a cable system's headend. To establish the availability of a VHF commercial station's signal, the 1992 Cable Act set out a standard of -49 dBm at a cable system's headend. A standard of -45 dBm was established for UHF commercial stations signals. Since these standards address the issue of availability of a station's signal, consistent with Congress' guidance with respect to VHF and UHF commercial station availability, we see no reason not to utilize the same standards as *prima facie* tests to initially determine whether a NCE station provides a cable system with a good quality signal. Generally, if the test results for VHF stations are less than -55 dBm, we believe that at least four readings must be taken over a two hour period. Where the initial readings are between -55 dBm and -49 dBm, inclusive, we believe that the readings should be taken over a 24-hour period, with measurements no more than four hours apart to establish reliable test results.² In addition to the information required by our rules to be furnished to the affected station when there is a dispute over signal level measurements,³ cable operators are expected to employ sound engineering measurement practices. Therefore, signal strength surveys should, at a minimum, include the following: 1) specific make and model numbers of the equipment used, as well as its age and most recent date(s) of calibration; 2) description(s) of the characteristics of the equipment used such as antenna ranges and radiation patterns; 3) height of the antenna above ground level and whether the antenna was properly oriented; and 4) weather conditions and time of day when the tests were done. When measured against these criteria, we conclude that the information submitted by Friendship is insufficient to demonstrate that KMOS-TV does not provide a good quality signal to the cable systems' principal headend.

¹ We note that Friendship has not provided its headend coordinates to KMOS-TV as required by Section 76.58(b) of the Rules, despite KMOS-TV's letter of December 23, 1992 requesting carriage. As such, we accept petitioner's conclusion that Friendship's headend for this system is located at Roach, Missouri.

² Generally, if the test results for UHF stations are less than

-51 dBm we believe that at least four readings must be taken over a two hour period. Where the initial readings are between -51 dBm and -49 dBm, inclusive, we believe that the readings should be taken over a 24 hour period with measurements not more than four hours apart to establish reliable test results.

³ See §76.61 of the Commission's Rules.

5. Accordingly, the complaint filed July 1, 1993, by Central Missouri State University IS GRANTED in accordance with §615(j)(3)(47 U.S.C. §535) of the Communications Act of 1934, as amended, and Friendship Cable of Missouri IS ORDERED to commence carriage of Station KMOS-TV, Sedalia, Missouri, on channel 6 on its cable television system serving Roach, Missouri, forty-five (45) days from the release date of this *Order* unless Friendship submits the engineering data required herein to support its assertion of poor signal quality at its principal headend. This action is taken by the Chief, Mass Media Bureau, pursuant to authority delegated by §0.283 of the Commission's Rules.

FEDERAL COMMUNICATIONS COMMISSION

Roy J. Stewart
Chief, Mass Media Bureau

Before the
Federal Communications Commission
Washington, D.C. 20554

In re:

Complaint of Central Missouri CSR-3955-M
State University against MO0828
Douglas Cable Communications

Request for Carriage

MEMORANDUM OPINION AND ORDER

Adopted: December 6, 1993; Released: January 18, 1994

By the Chief, Mass Media Bureau

1. On July 1, 1993, a petition on behalf of Central Missouri State University, licensee of Station KMOS-TV (Educ., Ch. 6), Sedalia, Missouri, was filed with the Commission claiming that Douglas Cable Communications ("Douglas"), operator of a cable television system serving Emma, Missouri had declined to carry the station, even though the Grade B contour of KMOS-TV encompasses the system's headend located at North latitude 93°29'40" and West longitude 38°58'18" and is therefore a "local" signal within the meaning of §5 of the Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, 106 Stat. 1460 (1992). KMOS-TV requests that the Commission not only order Douglas to carry its signal, but also order that the system carry it on channel 6, the channel on which it broadcasts over-the-air. No opposition to this petition has been filed.

2. KMOS-TV's petition establishes that it is entitled to carriage on the Emma cable system, and it has requested carriage of its over-the-air broadcast channel, as it is permitted to do under §5 of the 1992 Cable Act. Since no other pleadings have been filed in this matter, the complaint filed July 1, 1993, by Central Missouri State University IS GRANTED, in accordance with §615(j)(3) (47 U.S.C. 535) of the Communications Act of 1934, as amended, and Douglas Cable Communications IS ORDERED to commence carriage of KMOS-TV on cable channel 6 forty-five days (45) from the release of this Order. This action is taken by the Chief, Mass Media Bureau, pursuant to authority delegated by §0.283 of the Commission's Rules.

FEDERAL COMMUNICATIONS COMMISSION

Roy J. Stewart
Chief, Mass Media Bureau

Before the
Federal Communications Commission
Washington, D.C. 20554

In re:

Complaint of Central Missouri State University against
Douglas Cable Communications

CSR-3956-M

Request for Carriage

MEMORANDUM OPINION AND ORDER

Adopted: November 9, 1993; Released: December 9, 1993

By the Chief, Mass Media Bureau:

1. On July 8, 1993, Central Missouri State University ("CMSU"), licensee of KMOS-TV, Sedalia, Missouri, filed a complaint against Douglas Cable Communications ("Douglas Cable"), pursuant to §615 of the Communications Act, 47 U.S.C. §535. CMSU requests that the Commission order Douglas Cable to carry KMOS-TV on Douglas Cable's cable system serving Montrose, Missouri, and that KMOS-TV be carried on Channel 6.

2. Section 615 of the Communications Act of 1934, as amended, requires a cable system to carry the signals of qualified local noncommercial educational television stations. See 47 U.S.C. §535. A television station that is licensed by the Commission as a noncommercial educational television station and is owned and operated by a public agency, nonprofit foundation, corporation or association that is eligible to receive a community service grant from the Corporation for Public Broadcasting will be considered a qualified noncommercial educational television station. See 47 U.S.C. §535(l)(1)(A); 47 C.F.R. §76.55(a)(1). A qualified noncommercial educational television station whose Grade B service contour encompasses the principal headend of the cable system will be considered local. See 47 U.S.C. §535(l)(2)(A); 47 C.F.R. §76.55(b)(2).

3. CMSU contends that KMOS-TV is a qualified local noncommercial educational television station and therefore it has the right to carriage on Douglas Cable's Montrose, Missouri, cable system. We agree. CMSU has presented the following evidence with respect to KMOS-TV: KMOS-TV is licensed as a noncommercial television station; it is owned by the Board of Regents at Central Missouri State University, a public agency operating under the laws of the state of Missouri; it is eligible to receive a community service grant from the Corporation for Public Broadcasting, and; its Grade B service contour encompasses the principal headend of Douglas Cable's Montrose cable system. Accordingly, KMOS-TV meets the Commission's definition of a qualified local noncommercial educational television station. CMSU has submitted a November 25, 1992 letter which it sent to Douglas Cable requesting carriage on Channel 6. According to CMSU, Douglas Cable has neither commenced carriage nor responded in any way to CMSU's request for carriage and channel positioning.

4. According to § 615(g)(5), a qualified local noncommercial educational station carried pursuant to must-carry requirements must appear on the cable system channel number on which it is broadcast over-the-air, or on the channel on which it was carried on July 19, 1985, at the election of the station, or on such other channel as is mutually agreed upon by the station and the cable operator. 47 U.S.C. §535(g)(5); 47 C.F.R. §76.57(b). Because CMSU has elected that KMOS-TV be carried on its over-the-air channel, Channel 6, we will grant its request that the Commission order Douglas Cable to carry KMOS-TV on Channel 6.

5. In view of the above, the complaint filed on July 8, 1993 by Central Missouri State University, licensee of KMOS-TV, Sedalia, Missouri (CSR-3956-M) IS GRANTED, in accordance with §615(j)(3) of the Communications Act of 1934, as amended, (47 U.S.C. §535). Furthermore, Douglas Cable Communications IS ORDERED to commence carriage of KMOS-TV on Channel 6 within Order on its system serving Montrose, Missouri. This action is taken by the Chief, Mass Media Bureau, pursuant to authority delegated by §0.283 of the Commission's rules, 47 C.F.R. §0.283.

FEDERAL COMMUNICATIONS COMMISSION

Roy J. Stewart
Chief, Mass Media Bureau

Before the
Federal Communications Commission
Washington, D.C. 20554

In re:

Complaint of Central
Missouri State University
against Douglas Cable
Communications

CSR-3957-M

Request for Carriage

MEMORANDUM OPINION AND ORDER

Adopted: November 9, 1993; Released: December 14, 1993

By the Chief, Mass Media Bureau:

1. On July 8, 1993, Central Missouri State University ("CMSU"), licensee of KMOS-TV, Sedalia, Missouri, filed a complaint against Douglas Cable Communications ("Douglas Cable"), pursuant to §615 of the Communications Act, 47 U.S.C. §535. CMSU requests that the Commission order Douglas Cable to carry KMOS-TV on Douglas Cable's cable system serving Malta Bend, Missouri, and that KMOS-TV be carried on Channel 6.

2. Section 615 of the Communications Act of 1934, as amended, requires a cable system to carry the signals of qualified local noncommercial educational television stations. See 47 U.S.C. §535. A television station that is licensed by the Commission as a noncommercial educational television station and is owned and operated by a public agency, nonprofit foundation, corporation or association that is eligible to receive a community service grant from the Corporation for Public Broadcasting will be considered a qualified noncommercial educational television station. See 47 U.S.C. §535(l)(1)(A); 47 C.F.R. §76.55(a)(1). A qualified noncommercial educational television station whose Grade B service contour encompasses the principal headend of the cable system will be considered local. See 47 U.S.C. §535(l)(2)(A); 47 C.F.R. §76.55(b)(2).

3. CMSU contends that KMOS-TV is a qualified local noncommercial educational television station and therefore it has the right to carriage on Douglas Cable's Malta Bend, Missouri, cable system. We agree. CMSU has presented the following evidence with respect to KMOS-TV: KMOS-TV is licensed as a noncommercial television station; it is owned by the Board of Regents at Central Missouri State University, a public agency operating under the laws of the state of Missouri; it is eligible to receive a community service grant from the Corporation for Public Broadcasting, and; its Grade B service contour encompasses the entire municipality of Malta Bend. CMSU states that Douglas Cable has not responded to CMSU's request for the geographic location of the principal headend of Douglas Cable's Malta Bend cable system, but that CMSU "infer[s] that the headend is located at or near Malta Bend, the location of which is within KMOS-TV's Grade-B broadcast area." Accordingly, KMOS-TV meets the Commission's definition of a qualified local noncommercial educational television sta-

tion. CMSU has submitted a November 25, 1992 letter which it sent to Douglas Cable requesting carriage on Channel 6. According to CMSU, Douglas Cable has neither commenced carriage nor responded in any way to CMSU's request for carriage and channel positioning.

4. According to §615(g)(5), a qualified local noncommercial educational station carried pursuant to must-carry requirements must appear on the cable system channel number on which it is broadcast over-the-air, or on the channel on which it was carried on July 19, 1985, at the election of the station, or on such other channel as is mutually agreed upon by the station and the cable operator. 47 U.S.C. §535(g)(5); 47 C.F.R. §76.57(b). Because CMSU has elected that KMOS-TV be carried on its over-the-air channel, Channel 6, we will grant its request that the Commission order Douglas Cable to carry KMOS-TV on Channel 6.

5. In view of the above, the complaint filed on July 8, 1993 by Central Missouri State University, licensee of KMOS-TV, Sedalia, Missouri (CSR-3957-M) IS GRANTED, in accordance with § 615(j)(3) of the Communications Act of 1934, as amended. (47 U.S.C. §535). Furthermore, Douglas Cable Communications IS ORDERED to commence carriage of KMOS-TV on Channel 6 within forty-six (46) days from the release date of this Order on its system serving Malta Bend, Missouri. This action is taken by the Chief, Mass Media Bureau, pursuant to authority delegated by §0.283 of the Commission's rules, 47 C.F.R. §0.283.

FEDERAL COMMUNICATIONS COMMISSION

Roy J. Stewart
Chief, Mass Media Bureau

Before the
Federal Communications Commission
Washington, D.C. 20554

In re:

Complaint of Central Missouri State University against
Douglas Cable Communications

CSR-3958-M

Request for Carriage

MEMORANDUM OPINION AND ORDER

Adopted: November 9, 1993; Released: December 9, 1993

By the Chief, Mass Media Bureau:

1. On July 8, 1993, Central Missouri State University ("CMSU"), licensee of KMOS-TV, Sedalia, Missouri, filed a complaint against Douglas Cable Communications ("Douglas Cable"), pursuant to Section 615 of the Communications Act, 47 U.S.C. § 535. CMSU requests that the Commission order Douglas Cable to carry KMOS-TV on Douglas Cable's cable system serving Nelson, Missouri, and that KMOS-TV be carried on Channel 6.

2. Section 615 of the Communications Act of 1934, as amended, requires a cable system to carry the signals of qualified local noncommercial educational television stations. See 47 U.S.C. § 535. A television station that is licensed by the Commission as a noncommercial educational television station and is owned and operated by a public agency, nonprofit foundation, corporation or association that is eligible to receive a community service grant from the Corporation for Public Broadcasting will be considered a qualified noncommercial educational television station. See 47 U.S.C. § 535(1)(1)(A); 47 C.F.R. § 76.55(a)(1). A qualified noncommercial educational television station whose Grade B service contour encompasses the principal headend of the cable system will be considered local. See 47 U.S.C. § 535(1)(2)(A); 47 C.F.R. § 76.55(b)(2).

3. CMSU contends that KMOS-TV is a qualified local noncommercial educational television station and therefore it has the right to carriage on Douglas Cable's Nelson, Missouri, cable system. We agree. CMSU has presented the following evidence with respect to KMOS-TV: KMOS-TV is licensed as a noncommercial television station; it is owned by the Board of Regents at Central Missouri State University, a public agency operating under the laws of the state of Missouri; it is eligible to receive a community service grant from the Corporation for Public Broadcasting, and; its Grade B service contour encompasses the entire municipality of Nelson, Missouri. CMSU states that Douglas Cable has not responded to CMSU's request for the geographic location of the principal headend of Douglas Cable's Nelson cable system, but that CMSU "infer[s] that the headend is located at or near Nelson, the location of which is within KMOS-TV's Grade-B broadcast area." Accordingly, KMOS-TV meets the Commission's definition of a qualified local noncommercial educational television station. CMSU has

submitted a November 25, 1992 letter which it sent to Douglas Cable requesting carriage on Channel 6. According to CMSU, Douglas Cable has neither commenced carriage nor responded in any way to CMSU's request for carriage and channel positioning.

4. According to Section 615(g)(5), a qualified local noncommercial educational station carried pursuant to must-carry requirements must appear on the cable system channel number on which it is broadcast over-the-air, or on the channel on which it was carried on July 19, 1985, at the election of the station, or on such other channel as is mutually agreed upon by the station and the cable operator. 47 U.S.C. § 535(g)(5); 47 C.F.R. § 76.57(b). Because CMSU has elected that KMOS-TV be carried on its over-the-air channel, Channel 6, we will grant its request that the Commission order Douglas Cable to carry KMOS-TV on Channel 6.

5. In view of the above, the complaint filed on July 8, 1993 by Central Missouri State University, licensee of KMOS-TV, Sedalia, Missouri (CSR-3958-M) IS GRANTED, in accordance with Section 615(j)(3) of the Communications Act of 1934, as amended, (47 U.S.C. § 535). Furthermore, Douglas Cable Communications IS ORDERED to commence carriage of KMOS-TV on Channel 6 within forty-six (46) days from the release date of this Order on its system serving Nelson, Missouri. This action is taken by the Chief, Mass Media Bureau, pursuant to authority delegated by Section 0.283 of the Commission's rules, 47 C.F.R. § 0.283.

FEDERAL COMMUNICATIONS COMMISSION

Roy J. Stewart
Chief, Mass Media Bureau

Before the
Federal Communications Commission
Washington, D.C. 20554

In re:

Complaint of Central Missouri CSR-3959-M
State University against Douglas
Cable Communications

Request for Carriage

MEMORANDUM OPINION AND ORDER

Adopted: November 9, 1993; Released: December 14, 1993

By the Chief, Mass Media Bureau:

1. On July 8, 1993, Central Missouri State University ("CMSU"), licensee of KMOS-TV, Sedalia, Missouri, filed a complaint against Douglas Cable Communications ("Douglas Cable"), pursuant to §615 of the Communications Act, 47 U.S.C. § 535. CMSU requests that the Commission order Douglas Cable to carry KMOS-TV on Douglas Cable's cable system serving Blackwater, Missouri, and that KMOS-TV be carried on Channel 6.

2. Section 615 of the Communications Act of 1934, as amended, requires a cable system to carry the signals of qualified local noncommercial educational television stations. See 47 U.S.C. § 535. A television station that is licensed by the Commission as a noncommercial educational television station and is owned and operated by a public agency, nonprofit foundation, corporation or association that is eligible to receive a community service grant from the Corporation for Public Broadcasting will be considered a qualified noncommercial educational television station. See 47 U.S.C. § 535(1)(1)(A); 47 C.F.R. § 76.55(a)(1). A qualified noncommercial educational television station whose Grade B service contour encompasses the principal headend of the cable system will be considered local. See 47 U.S.C. §535(1)(2)(A); 47 C.F.R. § 76.55(b)(2).

3. CMSU contends that KMOS-TV is a qualified local noncommercial educational television station and therefore it has the right to carriage on Douglas Cable's Blackwater, Missouri, cable system. We agree. CMSU has presented the following evidence with respect to KMOS-TV: KMOS-TV is licensed as a noncommercial television station; it is owned by the Board of Regents at Central Missouri State University, a public agency operating under the laws of the state of Missouri; it is eligible to receive a community service grant from the Corporation for Public Broadcasting, and; its Grade B service contour encompasses the entire municipality of Blackwater, Missouri. CMSU states that Douglas Cable has not responded to CMSU's request for the geographic location of the principal headend of Douglas Cable's Blackwater cable system, but that CMSU "infer[s] that the headend is located at or near Blackwater, the location of which is within KMOS-TV's Grade-B broadcast area." Accordingly, KMOS-TV meets the Commission's definition of a qualified local noncommercial educational television

station. CMSU has submitted a November 25, 1992 letter which it sent to Douglas Cable requesting carriage on Channel 6. According to CMSU, Douglas Cable has neither commenced carriage nor responded in any way to CMSU's request for carriage and channel positioning.

4. According to § 615(g)(5), a qualified local noncommercial educational station carried pursuant to must-carry requirements must appear on the cable system channel number on which it is broadcast over-the-air, or on the channel on which it was carried on July 19, 1985, at the election of the station, or on such other channel as is mutually agreed upon by the station and the cable operator. 47 U.S.C. §535(g)(5); 47 C.F.R. §76.57(b). Because CMSU has elected that KMOS-TV be carried on its over-the-air channel, Channel 6, we will grant its request that the Commission order Douglas Cable to carry KMOS-TV on Channel 6.

5. In view of the above, the complaint filed on July 8, 1993 by Central Missouri State University, licensee of KMOS-TV, Sedalia, Missouri (CSR-3959-M) IS GRANTED, in accordance with § 615(j)(3) of the Communications Act of 1934, as amended, (47 U.S.C. § 535). Furthermore, Douglas Cable Communications IS ORDERED to commence carriage of KMOS-TV on Channel 6 within forty-six (46) days from the release date of this Order on its system serving Blackwater, Missouri. This action is taken by the Chief, Mass Media Bureau, pursuant to authority delegated by §0.283 of the Commission's rules, 47 C.F.R. § 0.283.

FEDERAL COMMUNICATIONS COMMISSION

Roy J. Stewart
Chief, Mass Media Bureau

Before the
Federal Communications Commission
Washington, D.C. 20554

In re:

Complaint of Central Missouri State University against
Friendship Cable of Missouri

CSR-3960-M

Request for Carriage

MEMORANDUM OPINION AND ORDER

Adopted: May 4, 1994;

Released: May 27, 1994

By the Chief, Cable Services Bureau:

1. On July 8, 1993, Central Missouri State University ("CMSU"), licensee of KMOS-TV, Sedalia, Missouri, filed a complaint against Friendship Cable of Missouri ("Friendship Cable"), pursuant to Section 615 of the Communications Act, 47 U.S.C. § 535. CMSU requests that the Commission order Friendship Cable to carry KMOS-TV on Friendship Cable's cable system serving Niangua Bridge, Missouri, and that KMOS-TV be carried on Channel 6. On August 18, 1993, Buford Television, Inc. ("Buford"), filed an opposition to CMSU's complaint.¹ On September 7, 1993, CMSU filed a reply.

2. Section 615 of the Communications Act of 1934, as amended, requires a cable system to carry the signals of qualified local noncommercial educational television stations.² See 47 U.S.C. § 535. A cable operator shall not be required, however, to carry the signal of any qualified local noncommercial educational television system which does not deliver to the cable system's principal headend a signal of good quality or baseband video signal. See 47 U.S.C. § 535(g)(4). Because the cable operator is in the best position to know whether a given noncommercial educational station is providing a good quality signal to the system's principal headend, we believe that the initial burden of demonstrating the lack of a good quality signal appropriately falls on the cable operator. In meeting this burden, the cable operator must show that it has used good engineering practices, as defined below, to measure the signal delivered to the headend.

3. With respect to the standard to be used to determine what constitutes a "good quality" signal, we note that the 1992 Cable Act failed to set a standard for either VHF or

UHF noncommercial stations. However, the 1992 Cable Act did adopt a standard for determining the availability of VHF and UHF commercial stations at a cable system's headend. To establish the availability of a VHF commercial station's signal, the 1992 Cable Act set out a standard of -49 dBm at a cable system's headend. A standard of -45 dBm was established for UHF commercial station signals. Consistent with Congress' guidance with respect to VHF and UHF commercial station availability, we see no reason not to utilize the same standards as *prima facie* tests to initially determine, absent other evidence, whether VHF or UHF noncommercial stations place adequate signal levels over a cable system's principal headend.

4. In its Complaint, CMSU asserts that KMOS-TV is a qualified local noncommercial educational television station and therefore it has the right to carriage on Friendship Cable's Niangua Bridge, Missouri, cable system.³ CMSU states that although Friendship Cable has not responded to CMSU's request for the geographic location of the principal headend of Friendship Cable's Niangua Bridge cable system, CMSU "infer[s] that the headend is located at or near Niangua Bridge, the location of which is within KMOS-TV's Grade-B broadcast area."

5. In response, Friendship Cable notes in its opposition that its initial determination of KMOS-TV's eligibility for must-carry was that the system was not within the 50-mile zone from KMOS-TV's point of reference. See 47 C.F.R. § 76.55(b). It states that its cable systems are on the edge of KMOS-TV's Grade B contour and the 50-mile zone. Since the complaint was filed, however, Buford's engineer conducted field intensity surveys which show that the signal level at each headend site is less than the acceptable levels required by the Commission's rules regarding signal quality, and that, therefore, KMOS-TV does not qualify for carriage.

6. In its reply, CMSU notes that Buford still has not supplied information concerning the geographic coordinates and the off-air broadcast stations carried by Friendship Cable's Niangua Bridge system. CMSU also asserts that the field survey analysis conducted by Buford did not include periodic measurements of the signal; did not indicate the orientation of the reception antenna used to measure KMOS-TV's signal; was not dated; and, that the antenna was purportedly placed at 40-feet high on the tower at Niangua Bridge. CMSU alleges that Buford is not using the same, standard reception practices to obtain KMOS-TV's signal as it uses to obtain off-air signals from the Columbia/Jefferson City and Springfield areas, and that, therefore, the KMOS-TV signal was not tested using the same engineering practices used to receive and process other off-air broadcast signals.

7. Although Friendship Cable never submitted the geographic location of its principal headend, we will assume that KMOS-TV's signal meets the definition of "local" in

¹ Friendship Cable is owned by Buford Television, Inc.

² A television station that is licensed by the Commission as a noncommercial educational television station and is owned and operated by a public agency, nonprofit foundation, corporation or association that is eligible to receive a community service grant from the Corporation for Public Broadcasting will be considered a qualified noncommercial educational television station. See 47 U.S.C. § 535(l)(1)(A); 47 C.F.R. § 76.55(a)(1). A local qualified noncommercial educational television station is a qualified noncommercial educational television station that is licensed to a community whose reference point is within 50

miles of the principal headend of the cable system; or, whose Grade B service contour encompasses the principal headend of the cable system. See 47 U.S.C. § 535(l)(2); 47 C.F.R. § 76.55(b).

³ CMSU maintains that KMOS-TV is licensed as a noncommercial television station; it is owned by the Board of Regents at Central Missouri State University, a public agency operating under the laws of the state of Missouri; it is eligible to receive a community service grant from the Corporation for Public Broadcasting; and, its Grade B service contour encompasses the entire municipality of Niangua Bridge, Missouri.

47 C.F.R. § 76.55(b). CMSU has stated its belief that KMOS-TV meets the definition of local. Further, Friendship Cable notes that although it initially determined that Niangua Bridge's reference point was not within 50 miles of the cable system's principal headend, it later concluded that its cable system is "on the edge" of KMOS-TV's Grade B contour and the 50-mile zone.⁴

8. We find that Friendship Cable has not met its burden of demonstrating the lack of a good quality signal because it has not shown that it has used standard engineering practices. To determine whether a certain level of signal is present, it is necessary to submit a series of measurements, not just one. Generally, if the test results are less than -55 dBm for a VHF station, at least four readings must be taken over a two-hour period. Where the initial readings are between -55 dBm and -49 dBm, inclusive, the readings should be taken over a 24-hour period, with measurements no more than 4 hours apart to establish reliable test results. In addition to the information required by our rules to be furnished to the affected station when there is a dispute over signal level measurements, see 47 C.F.R. § 76.61, cable operators are expected to employ sound engineering measurement practices. Signal strength surveys, therefore, should include, at a minimum, the following: 1) specific make and model numbers of the equipment used, as well as its age and most recent date(s) of calibration; 2) description(s) of the characteristics of the equipment used, such as antenna ranges and radiation patterns; 3) height of the antenna above ground level and whether the antenna was properly oriented; and 4) weather conditions and time of day when the tests were done. When measured against these criteria, the data submitted by Friendship Cable is insufficient to demonstrate that KMOS-TV's signal is not of "good quality" at the cable system's headend. See, e.g., *Complaint of Channel 5 Public Broadcasting, Inc. against WestStar Cable*, CSR-3799-M, DA-93-896 (released July 23, 1993).

9. CMSU has submitted a December 23, 1992 letter which it sent to Friendship Cable requesting carriage on Channel 6. According to Section 615(g)(5), a qualified local noncommercial educational station carried pursuant to must-carry requirements must appear on the cable system channel number on which it is broadcast over-the-air, or on the channel on which it was carried on July 19, 1985, at the election of the station, or on such other channel as is mutually agreed upon by the station and the cable operator. 47 U.S.C. § 535(g)(5); 47 C.F.R. § 76.57(b). Because CMSU has elected that KMOS-TV be carried on its over-the-air channel, Channel 6, we will grant its request that the Commission order Friendship Cable to carry KMOS-TV on Channel 6.

10. In view of the above, the complaint filed on July 8, 1993 by Central Missouri State University, licensee of KMOS-TV, Sedalia, Missouri (CSR-3960-M) IS GRANTED, in accordance with Section 615(j)(3) of the Communications Act of 1934, as amended, (47 U.S.C. § 535). Furthermore, Friendship Cable of Missouri IS ORDERED to commence carriage of KMOS-TV on Channel 6 within forty-five (45) days from the release date of this *Order* on its system serving Niangua Bridge, Missouri, unless Friend-

ship Cable submits, to the Commission and to CMSU, within fifteen (15) days of the release date of this *Order*, the engineering data required herein to support Friendship Cable's assertion of poor signal quality from KMOS-TV at Friendship Cable's principal headend.⁵ This action is taken by the Deputy Chief, Cable Services Bureau, pursuant to authority delegated by Section 0.321 of the Commission's rules, 47 C.F.R. § 0.321.

FEDERAL COMMUNICATIONS COMMISSION

William H. Johnson

Deputy Chief, Cable Services Bureau

⁴ Friendship Cable apparently does not dispute that KMOS-TV's Grade B service contour encompasses the principal headend of the cable system.

⁵ We believe that 15 days is sufficient time for Friendship

Cable to perform the required tests. Guidance regarding what constitutes standard engineering practices has been available since July 23, 1993. See *Channel 5 Public Broadcasting, Inc., supra*.

Before the
Federal Communications Commission
Washington, D.C. 20554

In re:

Complaint of Central Missouri State University against Douglas Cable Communications CSR-3961-M
MO0865

Petition for Reconsideration

MEMORANDUM OPINION AND ORDER

Adopted: August 10, 1994; Released: August 24, 1994

By the Chief, Cable Services Bureau:

1. On February 4, 1994, a petition for reconsideration was filed on behalf of Douglas Communications Corporation II ("Douglas"), operator of a cable system serving Kingsville, Missouri.¹ Douglas requests that the Commission reconsider its December 6, 1993 action² ordering its Kingsville, Missouri system to carry Station KMOS-TV (Educ., Ch. 6), Sedalia, Missouri. An opposition to this petition was filed February 14, 1994, to which Douglas has responded.

2. In support of its request, Douglas states that the Kingsville system serves only 50 subscribers and has only 10 usable, activated channels. It argues that in order to carry KMOS-TV it would be forced to remove programming that has been provided to its subscribers since at least March 29, 1990. Douglas maintains that §535(b)(2)(B)(iii) of the Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, 106 Stat. 1460 (1992), and §76.56(a)(3) of the Commission's Rules specifically exempt small systems, such as Douglas', from the signal carriage requirements applicable to qualified NCE stations. It therefore concludes that it should not be required to add KMOS-TV to the Kingsville system.

3. KMOS-TV argues in its response that Douglas' claim that it is not required to add KMOS-TV because its system has only 10 usable, activated channels directly conflicts with §615(2)(A) of the 1992 Cable Act which requires that systems with 12 or fewer channels are required to carry the signal of at least one local noncommercial educational television station. KMOS-TV avers that at the present time Douglas provides no educational stations to its subscribers. It contends, therefore, that to avoid further irreparable harm to its station, Douglas should be required to add KMOS-TV to its system.

4. In its response, Douglas reiterates its reliance on §76.56(a)(3) of the Commission's rules which states that "cable system with 12 or fewer usable activated channels shall not be required to remove any programming service

provided to subscribers as of March 29, 1990, to satisfy these requirements, except that the first available channel must be used to satisfy these requirements (emphasis added)." Since all of its 10 activated channels on the Kingsville system are currently occupied by programming that has been carried since at least March 29, 1990, Douglas maintains that it is not required to add KMOS-TV to its system until such time as channel space become available on the system.

5. We are not persuaded by the arguments raised by KMOS-TV. Section 76.56(a)(3) of the rules clearly provides for an exception to the must-carry requirements for NCE stations in those instances where cable systems have 12 or fewer usable channels. Douglas has clearly shown that such is the case for the system herein. It should be emphasized, however, that as soon as the channel capacity becomes available on the Kingsville system, Douglas will be required to add KMOS-TV in order to fulfill its obligation to carry at least one NCE station pursuant to §76.56(a)(1)(i) of the Commission's Rules.

6. In light of the above, therefore, pursuant to §§0.321 and 1.106 of the Commission's Rules, the petition for reconsideration, filed February 4, 1994, on behalf of Douglas Communications Corporation II, IS GRANTED and our Order adopted October 12, 1993 IS RESCINDED.

FEDERAL COMMUNICATIONS COMMISSION

William H. Johnson
Acting Chief, Cable Services Bureau

¹ An "Emergency Petition for Stay" was filed concurrently with this petition requesting that the Commission stay the effective date of its decision until it acts on Douglas' reconsideration request. In view of our action today, we need not address

Douglas' arguments in support of a stay.

² *Central Missouri State University against Douglas Cable Communications*, 9 FCC Rcd 238 (1994).

Before the
Federal Communications Commission
Washington, D.C. 20554

In re:

Complaint of Central Missouri State University against Douglas Cable Communications

CSR-3961-M
M00865

Request for Carriage

MEMORANDUM OPINION AND ORDER

Adopted: December 6, 1993; Released: January 12, 1994

By the Chief, Mass Media Bureau:

1. On July 8, 1993, a petition on behalf of Central Missouri State University, licensee of Station KMOS-TV (Educ., Ch. 6), Sedalia, Missouri, was filed with the Commission claiming that Douglas Cable Communications ("Douglas"), operator of a cable television system serving Kingsville, Missouri, had declined to carry the station, even though the Grade B contour of KMOS-TV encompasses the system's principal headend at Kingsville and the station is therefore a "local" signal within the meaning of §5 of the Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, 106 Stat. 1460 (1992). KMOS-TV requests that the Commission not only order Douglas to carry its signal on the cable system, but also order that the system carry it on Channel 6, the channel on which it broadcasts over-the-air. No opposition to this petition has been filed.

2. KMOS-TV's petition establishes that it is entitled to carriage on the Kingsville system and it has requested carriage on its over-the-air broadcast channel, as it is permitted to do under Section 5 of the 1992 Cable Act. Since no other pleadings have been filed in this matter, the complaint filed July 8, 1993, by Central Missouri State University IS GRANTED, in accordance with §615(j)(3) (47 U.S.C. 535) of the Communications Act of 1934, as amended, and Douglas Cable Communications IS ORDERED to commence carriage of KMOS-TV on cable channel 6 forty-five (45) days from the release date of this Order. This action is taken by the Chief, Mass Media Bureau, pursuant to authority delegated by §0.283 of the Commission's Rules.

FEDERAL COMMUNICATIONS COMMISSION

Roy J. Stewart
Chief, Mass Media Bureau

1-2/12/94

Before the
Federal Communications Commission
Washington, D.C. 20554

In re:

Complaint of Central Missouri
State University against
Douglas Cable Communications

CSR-3962-M
MO0824

Request for Carriage

MEMORANDUM OPINION AND ORDER

Adopted: December 6, 1993; Released: January 12, 1994

By the Chief, Mass Media Bureau:

1. On July 8, 1993, a petition on behalf of Central Missouri State University, licensee of Station KMOS-TV (Educ., Ch. 6), Sedalia, Missouri, was filed with the Commission claiming that Douglas Cable Communications ("Douglas"), operator of a cable television system serving Jamestown, Missouri, had declined to carry the station, even though the Grade B contour of KMOS-TV encompasses the system's principal headend at Jamestown and the station is therefore a "local" signal within the meaning of §5 of the Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, 106 Stat. 1460 (1992). KMOS-TV requests that the Commission not only order Douglas to carry its signal on the cable system, but also order that the system carry it on Channel 6, the channel on which it broadcasts over-the-air. No opposition to this petition has been filed.

2. KMOS-TV's petition establishes that it is entitled to carriage on the Jamestown system and it has requested carriage on its over-the-air broadcast channel, as it is permitted to do under Section 5 of the 1992 Cable Act. Since no other pleadings have been filed in this matter, the complaint filed July 8, 1993, by Central Missouri State University IS GRANTED, in accordance with §615(j)(3) (47 U.S.C. 535) of the Communications Act of 1934, as amended, and Douglas Cable Communications IS ORDERED to commence carriage of KMOS-TV on cable channel 6 forty-five (45) days from the release date of this Order. This action is taken by the Chief, Mass Media Bureau, pursuant to authority delegated by §0.283 of the Commission's Rules.

FEDERAL COMMUNICATIONS COMMISSION

Roy J. Stewart
Chief, Mass Media Bureau

Before the
Federal Communications Commission
Washington, D.C. 20554

In re:

Complaint of Central Missouri
State University against
Friendship Cable of Missouri

CSR-3963-M
MO0904

Request for Carriage

MEMORANDUM OPINION AND ORDER

Adopted: December 20, 1993; Released: January 12, 1994

By the Chief, Mass Media Bureau:

1. On July 8, 1993, a petition on behalf of Central Missouri State University, licensee of Station KMOS-TV (Educ., Ch. 6), Sedalia, Missouri, was filed with the Commission claiming that Friendship Cable of Missouri ("Friendship"), operator of a cable television system serving Gravois Mills, Missouri, had declined to carry the station, even though the Grade B contour of KMOS-TV encompasses the system's principal headend located at Gravois Mills,¹ and the station is therefore a "local" signal within the meaning of Section 5 of the Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, 106 Stat. 1460 (1992). KMOS-TV requests that the Commission not only order Friendship to carry its signal, but also order the system to carry it on Channel 6, the channel on which it broadcasts over-the-air. An opposition to this petition was filed August 15, 1993, on behalf of Friendship.

2. In its opposition, Friendship states that its system engineer conducted a field survey analysis using a Wavetek Sam 1, calibrated March 11, 1993, connected to a low band Cadco antenna cut for channels 2 through 6, placed on a forty-foot tower with fifty feet of feed cable, and peaked on KMOS-TV's signal. This analysis determined that KMOS-TV's received signal was -4 dBmV (-53 dBm). Therefore, Friendship claims, KMOS-TV does not qualify for carriage on its system due to its poor signal quality.

3. Section 615(g)(4) of the Communications Act of 1934, as amended, states that "a cable operator shall not be required to carry the signal of any qualified local noncommercial educational television station which does not deliver to the cable system's principal headend a signal of good quality or a baseband video signal, as may be defined by the Commission." 47 U.S.C. 535(G)(4). Because the cable operator is in the best position to know whether a given NCE station is providing a good quality signal to the system's principal headend, we believe that the initial burden of demonstrating the lack of a good quality signal

appropriately falls on the cable operator. In meeting this burden, the cable operator must show that it has used good engineering practices, as defined below, to measure the signal delivered to the headend.

4. With respect to the standard to be used to determine what constitutes a "good quality" signal, we note that the 1992 Cable Act failed to set a standard for either VHF or UHF noncommercial stations. However, the 1992 Cable Act did adopt a standard for determining the availability of VHF and UHF commercial stations at a cable system's headend. To establish the availability of a VHF commercial station's signal, the 1992 Cable Act set out a standard of -4 dBm at a cable system's headend. A standard of -45 dBm was established for UHF commercial station signals. Consistent with Congress' guidance with respect to VHF and UHF commercial station availability, we see no reason not to utilize the same standards as *prima facie* tests to initially determine, absent other evidence, whether VHF or UHF non-commercial stations place adequate signal levels over a cable system's principal headend.

5. In this instance, Friendship determined KMOS-TV signal strength to be below the requisite level for a VHF commercial station. We find, however, that the cable system failed to follow generally acceptable engineering practices in making its determination. Generally, if the test results are less than -55 dBm for a VHF station, we believe that at least four readings must be taken over a two hour period. Where the initial readings are between -55 dB and -49 dBm, inclusive, we believe that the readings should be taken over a 24 hour period, with measurements taken more than 4 hours apart to establish reliable test results.

6. In addition to the information required by our rule to be furnished to the affected station when there is a dispute over signal level measurements, cable operators are expected to employ sound engineering measurement practices. Therefore, signal strength surveys should, at a minimum, include the following: 1) specific make and model numbers of the equipment used, as well as its age and most recent date(s) of calibration; 2) description(s) of the characteristics of the equipment used, such as antenna range and radiation patterns; 3) height of the antenna above ground level and whether the antenna was properly oriented; and 4) weather conditions and time of day when tests were done. When measured against these criteria, we conclude that the data submitted by Friendship is insufficient to demonstrate that KMOS-TV's signal is not of "good quality" at the cable system's headend.

7. KMOS-TV's petition establishes that it is entitled to carriage on the Gravois Mills cable system, and it has requested carriage on its over-the-air broadcast channel. It is permitted to do under Section 5 of the 1992 Cable Act. Accordingly, the petition filed July 8, 1993, by Central Missouri State University IS GRANTED, pursuant to Section 615(j)(3) (47 U.S.C. 535) of the Communications Act of 1934, as amended, and Friendship Cable of Missouri IS ORDERED to commence carriage of KMOS-TV on cable channel 6 forty-five (45) days from the release date of this Order unless Friendship submits the engineering data required herein to support its assertion of poor signal quality from KMOS-TV at Friendship's principal headend. The

¹ We note that Friendship has not provided its headend coordinates to KMOS-TV as required by Section 76.5A(b) of the Rules, despite KMOS-TV's letter of December 23, 1992 requesting carriage. Since Friendship's opposition to the complaint

does not dispute the location of headend, we accept petitioner's conclusion that Friendship's headend for this system is located at Gravois Mills, Missouri.

Before the
Federal Communications Commission
Washington, D.C. 20554

In re:

Complaint of Central Missouri State University against
Cass County Cable

CSR-3964-M

Request for Carriage

MEMORANDUM OPINION AND ORDER

Adopted: December 8, 1993; Released: February 4, 1994

By the Chief, Mass Media Bureau:

1. On July 8, 1993, a petition on behalf of Central Missouri State University, licensee of Station KMOS-TV (Educ., Ch. 6), Sedalia, Missouri, was filed with the Commission claiming that Cass County Cable ("Cass"), operator of a cable television system serving Cass County, Missouri, had declined to carry the station, even though the Grade B contour of KMOS-TV encompasses the system's principal headend at Greenwood¹ and the station is therefore a "local" signal within the meaning of §5 of the Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, 106 Stat. 1460 (1992). KMOS-TV requests that the Commission not only order Cass to carry its signal on the cable system, but also order that the system carry it on Channel 6, the channel on which it broadcasts over-the-air. No opposition to this petition has been filed.

2. KMOS-TV's petition establishes that it is entitled to carriage on the Cass County system and it has requested carriage on its over-the-air broadcast channel, as it is permitted to do under Section 5 of the 1992 Cable Act. Since no other pleadings have been filed in this matter, the complaint filed July 8, 1993, by Central Missouri State University IS GRANTED, in accordance with §615(j)(3) (47 U.S.C. 535) of the Communications Act of 1934, as amended, and Cass County Cable IS ORDERED to commence carriage of KMOS-TV on cable channel 6 forty-five (45) days from the release date of this Order. This action is taken by the Chief, Mass Media Bureau, pursuant to authority delegated by §0.283 of the Commission's Rules.

FEDERAL COMMUNICATIONS COMMISSION

Roy J. Stewart
Chief, Mass Media Bureau

¹ We note that Cass has not provided its headend coordinates to KMOS-TV as required by Section 76.58(b) of the Rules, despite KMOS-TV's letter of November 25, 1992 requesting

carriage. Since no opposition to KMOS-TV's complaint has been filed, we accept petitioner's conclusion that Cass' headend for this system is located at Greenwood, Missouri.

Before the
Federal Communications Commission
Washington, D.C. 20554

In re:

Complaint of Central Missouri State University against
Douglas Cable Communications

CSR-3965-M

Request for Carriage

MEMORANDUM OPINION AND ORDER

Adopted: May 3, 1994;

Released: May 18, 1994

By the Chief, Cable Services Bureau:

1. On July 8, 1993, a petition on behalf of Central Missouri State University, licensee of Station KMOS-TV (Educ., Ch. 6), Sedalia, Missouri, was filed with the Commission claiming that Douglas Cable Communications ("Douglas"), operator of a cable television system serving Cass County, Missouri, had declined to carry the station, even though the Grade B contour of KMOS-TV encompasses the system's principal headend at Greenwood¹ and the station is therefore a "local" signal within the meaning of §5 of the Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, 106 Stat. 1460 (1992). KMOS-TV requests that the Commission not only order Douglas to carry its signal on the cable system, but also order that the system carry it on Channel 6, the channel on which it broadcasts over-the-air. No opposition to this petition has been filed.

2. KMOS-TV's petition establishes that it is entitled to carriage on the Cass County system and it has requested carriage on its over-the-air broadcast channel, as it is permitted to do under Section 5 of the 1992 Cable Act. Since no other pleadings have been filed in this matter, the complaint filed July 8, 1993, by Central Missouri State University IS GRANTED, in accordance with §615(j)(3) (47 U.S.C. 535) of the Communications Act of 1934, as amended, and Douglas Cable Communications IS ORDERED to commence carriage of KMOS-TV on cable channel 6 forty-five (45) days from the release date of this Order. This action is taken by the Chief, Cable Services Bureau, pursuant to authority delegated by §0.321 of the Commission's Rules.

FEDERAL COMMUNICATIONS COMMISSION

William H. Johnson, Deputy Chief
Cable Services Bureau

¹ We note that Douglas has not provided its headend coordinates to KMOS-TV as required by Section 76.58(b) of the Rules, despite KMOS-TV's November 25, 1992 letter requesting car-

riage. Since no opposition to KMOS-TV's complaint has been filed, we accept petitioner's conclusion that Douglas' headend for this system is located at Greenwood, Missouri.

12/19/94

Before the
Federal Communications Commission
Washington, D.C. 20554

In re:

Complaint of Central Missouri State University against
Falcon Cable TV

CSR-3967-M

Request for Carriage

MEMORANDUM OPINION AND ORDER

Adopted: December 8, 1993; Released: January 12, 1994

By the Chief, Mass Media Bureau:

1. On July 20, 1993, a petition on behalf of Central Missouri State University, licensee of Station KMOS-TV (Educ., Ch. 6), Sedalia, Missouri, was filed with the Commission claiming that Falcon Cable TV ("Falcon"), operator of a cable television system serving Hermitage and Wheatland, Missouri, had declined to carry the station, even though the Grade B contour of KMOS-TV encompasses the system's principal headend at Hermitage-Wheatland and the station is therefore a "local" signal within the meaning of §5 of the Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, 106 Stat. 1460 (1992). KMOS-TV requests that the Commission not only order Falcon to carry its signal on the cable system, but also order that the system carry it on Channel 6, the channel on which it broadcasts over-the-air. No opposition to this petition has been filed.¹

2. KMOS-TV's petition establishes that it is entitled to carriage on the Hermitage-Wheatland system and it has requested carriage on its over-the-air broadcast channel, as it is permitted to do under Section 5 of the 1992 Cable Act. Since no other pleadings have been filed in this matter, the complaint filed July 20, 1993, by Central Missouri State University IS GRANTED, in accordance with §615(j)(3) (47 U.S.C. 535) of the Communications Act of 1934, as amended, and Falcon Cable TV IS ORDERED to commence carriage of KMOS-TV on cable channel 6 forty-five (45) days from the release date of this Order. This action is taken by the Chief, Mass Media Bureau, pursuant to authority delegated by §0.283 of the Commission's Rules.

FEDERAL COMMUNICATIONS COMMISSION

Roy J. Stewart
Chief, Mass Media Bureau

¹ KMOS-TV states that it is its understanding that Falcon has conducted tests of KMOS-TV's signal strength at its headend.

However, no results of these tests have been provided to KMOS-TV or been included in the instant petition.

✓ 2/17/94

Before the
Federal Communications Commission
Washington, D.C. 20554

In re:

Complaint of Central Missouri
State University against
Falcon Cable TV

CSR-3968-M
MO0205

Request for Carriage

MEMORANDUM OPINION AND ORDER

Adopted: December 8, 1993; Released: January 12, 1994

By the Chief, Mass Media Bureau:

1. On July 20, 1993, a petition on behalf of Central Missouri State University, licensee of Station KMOS-TV (Educ., Ch. 6), Sedalia, Missouri, was filed with the Commission claiming that Falcon Cable TV ("Falcon"), operator of a cable television system serving Harrisonville, Missouri, had declined to carry the station, even though the Grade B contour of KMOS-TV encompasses the system's principal headend at Harrisonville and the station is therefore a "local" signal within the meaning of §5 of the Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, 106 Stat. 1460 (1992). KMOS-TV requests that the Commission not only order Falcon to carry its signal on the cable system, but also order that the system carry it on Channel 6, the channel on which it broadcasts over-the-air. No opposition to this petition has been filed.¹

2. KMOS-TV's petition establishes that it is entitled to carriage on the Harrisonville system and it has requested carriage on its over-the-air broadcast channel, as it is permitted to do under Section 5 of the 1992 Cable Act. Since no other pleadings have been filed in this matter, the complaint filed July 20, 1993, by Central Missouri State University IS GRANTED, in accordance with §615(j)(3) (47 U.S.C. 535) of the Communications Act of 1934, as amended, and Falcon Cable TV IS ORDERED to commence carriage of KMOS-TV on cable channel 6 forty-five (45) days from the release date of this Order. This action is taken by the Chief, Mass Media Bureau, pursuant to authority delegated by §0.283 of the Commission's Rules.

FEDERAL COMMUNICATIONS COMMISSION

Roy J. Stewart
Chief, Mass Media Bureau

¹ KMOS-TV states that it is its understanding that Falcon has conducted tests of KMOS-TV's signal strength at its headend.

However, no results of these tests have been provided to KMOS-TV or been included in the instant petition.

Federal Communications Commission

DA 94-453

Before the
Federal Communications Commission
Washington, D.C. 20554

In re:

Complaint of
Central Missouri
State University against
Jones Intercable
Investors, L.P.

CSR-3977-M; MO0409
CSR-3991-M; MO0154
CSR-3992-M; MO0196
CSR-3993-M; MO0282
CSR-3994-M; MO0702
CSR-3995-M; MO0328
CSR-3996-M; MO0293
CSR-3997-M; MO0272
CSR-3998-M; MO0402

Request for Carriage

MEMORANDUM OPINION AND ORDER

Adopted: May 3, 1994;

Released: May 18, 1994

By the Chief, Cable Services Bureau:

1. On August 2, 1993, Central Missouri State University, licensee of Station KMOS-TV (Educ., Ch. 6), Sedalia, Missouri, filed petitions with the Commission requesting that it be considered to be a must-carry station in the communities of Greenwood, Blue Springs, Lees Summit, Oak Grove, Odessa, Pleasant Hill, Grain Valley, Lake Lotawana and portions of Cass County, Missouri, all of which are served by Jones Intercable Investors, L.P. ("Jones"). An opposition to these petitions was filed on August 26, 1993, on behalf of Jones to which KMOS-TV responded on September 13, 1993. Jones filed a reply to KMOS-TV's response on September 22, 1993.

2. Initially, KMOS-TV states that all of the listed communities are served from the same headend, which is located in Raymore, Missouri at north latitude 38°50'20" and west longitude 94°26'07". KMOS-TV indicates that it requested carriage in each of these communities on November 25, 1992, but was subsequently informed by Jones on June 9, 1993 that it was not entitled to carriage since the system's principal headend was located outside of KMOS-TV's predicted Grade B contour. KMOS-TV adds that it was also informed by Jones that the station did not provide a good quality signal at the system's principal headend. While KMOS-TV concedes that Jones's headend at Raymore does indeed fall outside of its Grade B contour,¹ and that therefore KMOS-TV is not a "local" signal within the meaning

of Section 5 of the Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, 106 Stat. 1460 (1992), it points out that all of the referenced communities do fall within its Grade B contour and the people in these communities should be entitled to view all local broadcast signals over their cable system. KMOS-TV argues that using a cable system's primary headend location as the indisputable determinate for must-carry rights makes a mockery of the 1992 Cable Act, particularly in a situation such as this where the cable system is regional in composition with a primary headend at some distance from the population served. KMOS-TV concludes that, regardless of the location of Jones's primary headend, the system should be required to carry it in the referenced communities. With regard to the questions raised as to signal quality, KMOS-TV states that it feels it can provide an attainable signal at the Raymore headend site as long as standard engineering practices are used to receive and process its signal and it is willing to work with Jones in achieving a good signal.

3. In its opposition, Jones maintains that it is undisputed that, due to the location of its primary headend, KMOS-TV is not entitled to carriage under the provisions of the 1992 Cable Act. It argues that KMOS-TV's request herein would require an amendment to the Act which is beyond the authority delegated to the Commission. Finally, it states that whether or not KMOS-TV's signal is raised to sufficient levels to provide a good quality signal, the fact remains that the station is not qualified for must-carry status.

4. In response, KMOS-TV submits two independent engineering studies² which indicate that when actual terrain factors are taken into consideration its Grade B signal is sufficient to reach the location of Jones' primary headend. Further, after reviewing the signal reception test Jones conducted on its signal, KMOS-TV states that it feels that the data was, at best, incomplete and not conducted using standard engineering practices. In light of these factors, KMOS-TV reiterates its request for carriage in the listed communities.

5. Jones' reply states that the 1992 Cable Act requires that a station's Grade B contour, as defined in §73.683(a) of the Commission's Rules, cover a cable system's principal headend in order to be entitled to must-carry status. Jones argues that it is irrelevant that KMOS-TV's signal strength is above the required levels for a Grade B station over the subject cable communities. It asserts that it is evident from the contour map submitted by KMOS-TV that Raymore does not fall within the station's Grade B contour. Jones maintains that if KMOS-TV seeks to establish a change in its Grade B contour it must do so in a separate proceeding using appropriate and precise actual measurements to demonstrate the contour's actual presence, not the alternative prediction method³ it submitted here.

6. We are not persuaded by KMOS-TV's requests to be considered local in the above-referenced communities. §76.55(b) of the Commission's Rules defines a qualified

¹ A check of our records also indicates that Raymore is more than 50 miles from Sedalia, Missouri, KMOS-TV's city of license.

² The two surveys were performed by: 1) TA Services of Boulder, Colorado, a division of NTIA, the United States Department of Commerce, which used data pertaining to KMOS-TV's actual broadcast signal, factoring in actual terrain data as compiled by a division of the United States government; and 2)

D.L. Markley & Associates of Peoria, Illinois, which used verifiable data from KMOS-TV's broadcast signal factored in with actual terrain data from geographical coordinates north latitude 38°50'20", west longitude 94°27'07", the location of Jones' primary headend.

³ Section 73.684(f) allows for alternative predictions where terrain in one or more directions from the antenna site departs widely from the average elevation of the 3.2 to 16.1 kilometer

DA 94-453

Federal Communications Commission

noncommercial educational station as either one whose community of license is located within fifty miles of a cable system's principal headend or one whose Grade B service contour encompasses the principal headend. When the Commission adopted its prescribed prediction method for the calculation of Grade B contours in the mid-1970s, it recognized that the Grade B contour was not a wall within which all services provided by a television station were confined, and, therefore, the determination of its location by the most precise means available may not be well worth the complication which might be involved. Further, since the contour prediction method, as prescribed by the Commission, is primarily an administrative tool, it seems clear that contours should be located by means which promote the most efficient administration, i.e., by a relatively simple procedure which produces a speedy and unequivocal result. That policy still holds true today and apparently was the intent of Congress in the 1992 Cable Act when it cited §73.683(a) as the sole reference for Grade B contour definitions.

7. We therefore reject KMOS-TV's assertions that, based upon alternative Grade B prediction methods, its station's Grade B contour encompasses Jones' Raymore headend. Relying on the Commission's prescribed predicted Grade B contour method, KMOS-TV does not encompass the Raymore headend and, therefore, it does not qualify for must-carry status under this criterion in the subject communities.

8. In view of the foregoing, therefore, the 1992 Cable Act does not entitle KMOS-TV to mandatory carriage on the Jones cable television system serving the communities of Greenwood, Blue Springs, Lees Summit, Oak Grove, Odesa, Pleasant Hill, Grain Valley, Lake Lotawana and portions of Cass County, Missouri, and the complaints filed August 2, 1993, by Central Missouri State University ARE DISMISSED pursuant to authority delegated pursuant to §0.321 of the Commission's Rules and §615(j)(3) (47 U.S.C. 535) of the Communications Act of 1934, as amended.

FEDERAL COMMUNICATIONS COMMISSION

William H. Johnson, Deputy Chief
Cable Services Bureau

sector. In instances where the alternative prediction method is used, it is necessary to provide supportive information. The supplemental information required includes: contour distances as determined by other means, descriptions of the procedure employed, sample calculations, and maps of predicted coverage

which should include both the coverage as predicted by the regular method and as predicted by the supplemental method. In any event, Jones did not comply fully with these requirements.

FEDERAL COMMUNICATIONS COMMISSION

Before the
Federal Communications Commission
Washington, D.C. 20554

William H. Johnson, Deputy Chief
Cable Services Bureau

In re:

Complaint of Central Missouri
State University against
First Cable of Missouri, Inc.

CSR-4067-M
MO0963

Request for Carriage

MEMORANDUM OPINION AND ORDER

Adopted: May 4, 1994;

Released: May 17, 1994

By the Chief, Cable Services Bureau:

1. On September 20, 1993, a petition on behalf of Central Missouri State University, licensee of Station KMOS-TV (Educ., Ch. 6), Sedalia, Missouri, was filed with the Commission claiming that First Cable of Missouri, Inc. ("First Cable"), operator of a cable television system serving Eugene, Missouri, had declined to carry the station, even though the Grade B contour of KMOS-TV encompasses the system's principal headend at Eugene at Latitude 38°21'30", Longitude 92°24'00", and the station is therefore a "local" signal within the meaning of §5 of the Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, 106 Stat. 1460 (1992). KMOS-TV requests that the Commission not only order First Cable to carry its signal on the cable system, but also order that the system carry it on Channel 6, the channel on which it broadcasts over-the-air. No opposition to "this petition has been filed."¹

2. KMOS-TV's petition establishes that it is entitled to carriage on the Eugene system and it has requested carriage on its over-the-air broadcast channel, as it is permitted to do under Section 5 of the 1992 Cable Act. Since no other pleadings have been filed in this matter, the complaint filed September 20, 1993, by Central Missouri State University IS GRANTED, in accordance with §615(j)(3) (47 U.S.C. 535) of the Communications Act of 1934, as amended, and First Cable of Missouri, Inc. IS ORDERED to commence carriage of KMOS-TV on cable channel 6 forty-five (45) days from the release date of this Order. This action is taken by the Chief, Cable Services Bureau, pursuant to authority delegated by §0.321 of the Commission's Rules.

¹ KMOS-TV states in its petition that First Cable offered to supply A-B switches to its subscribers in lieu of carrying the station. KMOS-TV informed them that this was unacceptable.

but did offer to extend extra time for the system to add the signal. No response to KMOS-TV's suggestion was received.

FEDERAL COMMUNICATIONS COMMISSION

Before the
Federal Communications Commission
Washington, D.C. 20554

William H. Johnson, Deputy Chief
Cable Services Bureau

In re:

Complaint of Central Missouri State University against
First Cable of Missouri, Inc. CSR-4068-M
MO0933

Request for Carriage

MEMORANDUM OPINION AND ORDER

Adopted: May 4, 1994;

Released: May 17, 1994

By the Chief, Cable Services Bureau:

1. On September 20, 1993, a petition on behalf of Central Missouri State University, licensee of Station KMOS-TV (Educ., Ch. 6), Sedalia, Missouri, was filed with the Commission claiming that First Cable of Missouri, Inc. ("First Cable"), operator of a cable television system serving Syracuse, Missouri, had declined to carry the station, even though the Grade B contour of KMOS-TV encompasses the system's principal headend at Syracuse at Latitude 38°40'00", Longitude 92°52'30", and the station is therefore a "local" signal within the meaning of §5 of the Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, 106 Stat. 1460 (1992). KMOS-TV requests that the Commission not only order First Cable to carry its signal on the cable system, but also order that the system carry it on Channel 6, the channel on which it broadcasts over-the-air. No opposition to this petition has been filed.¹

2. KMOS-TV's petition establishes that it is entitled to carriage on the Syracuse system and it has requested carriage on its over-the-air broadcast channel, as it is permitted to do under Section 5 of the 1992 Cable Act. Since no other pleadings have been filed in this matter, the complaint filed September 20, 1993, by Central Missouri State University IS GRANTED, in accordance with §615(j)(3) (47 U.S.C. 535) of the Communications Act of 1934, as amended, and First Cable of Missouri, Inc. IS ORDERED to commence carriage of KMOS-TV on cable channel 6 forty-five (45) days from the release date of this Order. This action is taken by the Chief, Cable Services Bureau, pursuant to authority delegated by §0.321 of the Commission's Rules.

¹ KMOS-TV states in its petition that First Cable offered to supply A-B switches to its subscribers in lieu of carrying the station. KMOS-TV informed them that this was unacceptable.

but did offer to extend extra time for the system to add the signal. No response to KMOS-TV's suggestion was received.

FEDERAL COMMUNICATIONS COMMISSION

Before the
Federal Communications Commission
Washington, D.C. 20554

William H. Johnson, Deputy Chief
Cable Services Bureau

In re:

Complaint of Central Missouri State University against
First Cable of Missouri, Inc. CSR-4069-M
MO0931

Request for Carriage

MEMORANDUM OPINION AND ORDER

Adopted: May 4, 1994;

Released: May 17, 1994

By the Chief, Cable Services Bureau:

1. On September 20, 1993, a petition on behalf of Central Missouri State University, licensee of Station KMOS-TV (Educ., Ch. 6), Sedalia, Missouri, was filed with the Commission claiming that First Cable of Missouri, Inc. ("First Cable"), operator of a cable television system serving Clarksburg, Missouri, had declined to carry the station, even though the Grade B contour of KMOS-TV encompasses the system's principal headend at Clarksburg at Latitude 38°39'33", Longitude 92°39'48", and the station is therefore a "local" signal within the meaning of §5 of the Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, 106 Stat. 1460 (1992). KMOS-TV requests that the Commission not only order First Cable to carry its signal on the cable system, but also order that the system carry it on Channel 6, the channel on which it broadcasts over-the-air. No opposition to this petition has been filed.¹

2. KMOS-TV's petition establishes that it is entitled to carriage on the Clarksburg system and it has requested carriage on its over-the-air broadcast channel, as it is permitted to do under Section 5 of the 1992 Cable Act. Since no other pleadings have been filed in this matter, the complaint filed September 20, 1993, by Central Missouri State University IS GRANTED, in accordance with §615(j)(3) (47 U.S.C. 535) of the Communications Act of 1934, as amended, and First Cable of Missouri, Inc. IS ORDERED to commence carriage of KMOS-TV on cable channel 6 forty-five (45) days from the release date of this Order. This action is taken by the Chief, Cable Services Bureau, pursuant to authority delegated by §0.321 of the Commission's Rules.

¹ KMOS-TV states in its petition that First Cable offered to supply A-B switches to its subscribers in lieu of carrying the station. KMOS-TV informed them that this was unacceptable.

but did offer to extend extra time for the system to add the signal. No response to KMOS-TV's suggestion was received.

Before the
Federal Communications Commission
Washington, D.C. 20554

In re:

Complaint of Central Missouri
State University against
Lake Cable, Inc.

CSR-4070-M
MO0498

Request for Carriage

MEMORANDUM OPINION AND ORDER

Adopted: May 4, 1994;

Released: May 17, 1994

By the Chief, Cable Services Bureau

1. On September 20, 1993, a petition on behalf of Central Missouri State University, licensee of Station KMOS-TV (Educ., Ch. 6), Sedalia, Missouri, was filed with the Commission claiming that Lake Cable, Inc. ("Lake"), operator of a cable television system serving Tan-Tar-A, Missouri, had declined to carry the station, even though the Grade B contour of KMOS-TV encompasses "the system's principal headend at Tan-Tar-A"¹ and the station is therefore a "local" signal within the meaning of §5 of the Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, 106 Stat. 1460 (1992). KMOS-TV requests that the Commission not only order Lake to carry its signal on the cable system, but also order that the system carry it on Channel 6, the channel on which it broadcasts over-the-air. No opposition to this petition has been filed.

2. In support of its petition, KMOS-TV states that its request for carriage on the Tan-Tar-A system was denied by Lake on June 17, 1993, because Lake did not believe that KMOS-TV's Grade B contour encompassed its headend and, further, that the system was already carrying a qualified NCE station, KOZK (Educ., Ch. 21), Springfield, Missouri, whose Grade B contour did cover the system. KMOS-TV indicates that it commissioned an independent consulting firm² to corroborate the Grade B radius of each station. That study, it maintains, indicates that the Grade B contour of KMOS-TV does indeed encompass the Tan-Tar-A system while that of KOZK does not. However, KMOS-TV states Lake has still not added its signal.

3. While we cannot accept the findings as to the accuracy of the Grade B contour survey commissioned by KMOS-TV without verifying whether the methodology used meets with that accepted by the Commission, our own analysis, within the information available, appears to indicate that the Tan-Tar-A headend lies within both KMOS-TV's and KOZK's Grade B contours. We note that in its letter

refusing carriage, Lake cited its carriage of KOZK and §5(c) of the 1992 Cable Act as its reasons for denial. Section 5(c) states that a cable system "shall not be required to carry the signal of any additional qualified local noncommercial educational television stations affiliated with the same network if the programming of such additional stations is substantially duplicated by the programming of the qualified local noncommercial educational television station receiving carriage." However, beyond a vague assertion that KMOS-TV duplicates KOZK, Lake has provided no showing to the Commission to substantiate its claim. Absent such a showing, or any other valid reason, we cannot conclude that KMOS-TV is not a must-carry station on the Tan-Tar-A system.

4. KMOS-TV's petition establishes that it is entitled to carriage on the Tan-Tar-A system and it has requested carriage on its over-the-air broadcast channel, as it is permitted to do under §5 of the 1992 Cable Act. Since no other pleadings have been filed in this matter, the complaint filed September 20, 1993, by Central Missouri State University IS GRANTED, in accordance with §615(j)(3) (47 U.S.C. 535) of the Communications Act of 1934, as amended, and Lake Cable, Inc. IS ORDERED to commence carriage of KMOS-TV on cable channel 6 forty-five (45) days from the release date of this Order. This action is taken by the Chief, Cable Services Bureau, pursuant to authority delegated pursuant to §0.321 of the Commission's Rules.

FEDERAL COMMUNICATIONS COMMISSION

William H. Johnson, Deputy Chief
Cable Services Bureau

¹ We note that Lake has not provided its headend coordinates to KMOS-TV as required by §76.54(b) of the Rules, despite KMOS-TV's letter of May 17, 1993 requesting carriage. Since no formal opposition to KMOS-TV's complaint has been filed, we

accept petitioner's conclusion that Lake's headend for this system is located at Tan-Tar-A, Missouri.

² D.L. Markley & Associates, Inc.

FEDERAL COMMUNICATIONS COMMISSION

Before the
Federal Communications Commission
Washington, D.C. 20554

William H. Johnson, Deputy Chief
Cable Services Bureau

In re:

Complaint of Central Missouri State University against
First Cable of Missouri, Inc. CSR-4072-M
MO0965

Request for Carriage

MEMORANDUM OPINION AND ORDER

Adopted: May 4, 1994;

Released: May 17, 1994

By the Chief, Cable Services Bureau:

1. On September 20, 1993, a petition on behalf of Central Missouri State University, licensee of Station KMOS-TV (Educ., Ch. 6), Sedalia, Missouri, was filed with the Commission claiming that First Cable of Missouri, Inc. ("First Cable"), operator of a cable television system serving Harrisburg, Missouri, had declined to carry the station, even though the Grade B contour of KMOS-TV encompasses the system's principal headend at Harrisburg at Latitude 39°08'30", Longitude 92°27'30", and the station is, therefore a "local" signal within the meaning of §5 of the Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, 106 Stat. 1460 (1992). KMOS-TV requests that the Commission not only order First Cable to carry its signal on the cable system, but also order that the system carry it on Channel 6, the channel on which it broadcasts over-the-air. No opposition to this petition has been filed.¹

2. KMOS-TV's petition establishes that it is entitled to carriage on the Harrisburg system and it has requested carriage on its over-the-air broadcast channel, as it is permitted to do under Section 5 of the 1992 Cable Act. Since no other pleadings have been filed in this matter, the complaint filed September 20, 1993, by Central Missouri State University IS GRANTED, in accordance with §615(j)(3) (47 U.S.C. 535) of the Communications Act of 1934, as amended, and First Cable of Missouri, Inc. IS ORDERED to commence carriage of KMOS-TV on cable channel 6 forty-five (45) days from the release date of this Order. This action is taken by the Chief, Cable Services Bureau, pursuant to authority delegated by §0.321 of the Commission's Rules.

¹ KMOS-TV states in its petition that First Cable offered to supply A-B switches to its subscribers in lieu of carrying the station. KMOS-TV informed them that this was unacceptable.

but did offer to extend extra time for the system to add the signal. No response to KMOS-TV's suggestion was received.

FEDERAL COMMUNICATIONS COMMISSION

Before the
Federal Communications Commission
Washington, D.C. 20554

William H. Johnson, Deputy Chief
Cable Services Bureau

In re:

Complaint of Central Missouri State University against MW-1 CableSystems, Incorporated USA Cablesystems, Inc. CSR-4078-M MO0790

Request for Carriage

MEMORANDUM OPINION and ORDER

Adopted: May 5, 1994;

Released: June 15, 1994

By the Chief, Cable Services Bureau:

1. On September 21, 1993, a petition on behalf of Central Missouri State University, licensee of Station KMOS-TV (Educ., Ch. 6), Sedalia Missouri, was filed with the Commission claiming that MW-1 CableSystems, Incorporated USA Cablesystems, Inc. ("MW-1") operator of a cable television system serving Chilhowee, Missouri, had declined to carry the station, even though the Grade B contour of KMOS-TV encompasses the system's principal headend at Chilhowee and the station is therefore a "local" signal within the meaning of §5 of the Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, 106 Stat. 1460 (1992). KMOS-TV's requests that the Commission not only order MW-1 to carry its signal on the cable system, but also order that the system carry it on Channel 6, the channel on which it broadcasts over-the-air. No opposition to this petition has been filed.

2. KMOS-TV's petition establishes that it is entitled to carriage on the MW-1 cable system and it has requested carriage on its over-the-air broadcast channel, as it is permitted to do under §5 of the 1992 Cable Act. Since no other pleadings have been filed in this matter, the Complaint filed September 21, 1993 by Central Missouri State University IS GRANTED, in accordance with §615 (j) (3) (47 U.S.C. 535) of the Communications Act of 1934, as amended, and MW-1 CableSystems, Incorporated USA Cablesystems, Inc. IS ORDERED to commence carriage of KMOS-TV on cable channel 6 forty-five (45) days from the release date of this ORDER. This action is taken by the Chief, Cable Services Bureau, pursuant to delegated authority delegated by §0.321 of the Commission's Rules.

We note that MW-1 has not provided its headend coordinates to KMOS-TV as required by §76.58(b) of the Rules, despite KMOS-TV's letter received by MW-1 on May 15, 1993, request-

ing carriage. Since no opposition to KMOS-TV's complaint has been filed, we accept petitioner's conclusion that MW-1's headend for this system is located at Chilhowee, Missouri.

FEDERAL COMMUNICATIONS COMMISSION

Before the
Federal Communications Commission
Washington, D.C. 20554

William H. Johnson, Deputy Chief
Cable Services Bureau

In re:

Complaint of Central Missouri CSR-4079
State University against Tristar MO0970
Cable, Incorporated

Request for Carriage

MEMORANDUM OPINION AND ORDER

Adopted: May 5, 1994; Released: May 31, 1994

By the Chief, Cable Services Bureau:

1. On September 21, 1993, a petition on behalf of Central Missouri State University, licensee of Station KMOS-TV (Educ., Ch. 6), Sedalia, Missouri, was filed with the Commission claiming that Tristar Cable, Incorporated ("Tristar"), operator of a cable television system serving Centerview, Missouri, had declined to carry Station KMOS-TV, even though the Grade B contour of Station KMOS-TV encompasses the system's principal headend at Centerview¹ and the station is therefore a "local" signal within the meaning of §5 of the Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, 106 Stat. 1460 (1992). Station KMOS-TV requests that the Commission not only order Tristar to carry its signal on the cable system, but also order that the system carry it on Channel 6, the channel on which it broadcasts over-the-air. No opposition to this petition has been filed. Station KMOS-TV's petition establishes that it is entitled to carriage on the Tristar cable system and it has requested carriage on its over-the-air broadcast channel, as it is permitted to do under §5 of the 1992 Cable Act. Since no other pleadings have been filed in this matter, the Complaint filed September 21, 1993 by Central Missouri State University **IS GRANTED**, in accordance with §615(j)(3) (47 U.S.C. 535) of the Communications Act of 1934, as amended, and Tristar Cable, Incorporated **IS ORDERED** to commence carriage of Station KMOS-TV on cable channel 6 forty-five (45) days from the release of this **ORDER**. This action is taken by the Chief, Cable Services Bureau, pursuant to authority delegated by §0.321 of the Commission's Rules.

¹ We note that Tristar has not provided its headend coordinates to Station KMOS-TV as required by §76.58(b) of the Rules, despite Station KMOS-TV's letter of June 3, 1993, requesting carriage. Since no opposition to Station KMOS-TV's

complaint has been filed, we accept petitioner's conclusion that Tristar's headend for this system is located at Centerview, Missouri.

Before the
Federal Communications Commission
Washington, D.C. 20554

In re:

Complaint of Central Missouri State University against Tiger Cable Systems, Incorporated

CSR-4080-M
MO0976

Request for Carriage

MEMORANDUM OPINION and ORDER

Adopted: May 5, 1994;

Released: May 31, 1994

By the Chief, Cable Services Bureau:

1. On September 21, 1993, a petition on behalf of Central Missouri State University, licensee of Station KMOS-TV (Educ., Ch 6), Sedalia, Missouri, was filed with the Commission claiming that Tiger Cable Systems, Incorporated ("Tiger"), operator of a cable television system serving Macks Creek, Missouri, had declined to carry Station KMOS-TV, even though the Grade B contour of Station KMOS-TV encompasses the system's principal headend at Macks Creek¹ and the station is therefore a "local" signal within the meaning of §5 of the Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, 106 Stat. 1460 (1992). Station KMOS-TV requests that the Commission not only order Tiger to carry its signal on the cable system, but also order that the system carry it on Channel 6, the channel on which it broadcasts over-the-air. No opposition to this petition has been filed. Station KMOS-TV's petition establishes that it is entitled to carriage on the Tiger cable system and it has requested carriage on its over-the-air broadcast channel, as it is permitted to do under §5 of the 1992 Cable Act. Since no other pleadings have been filed in this matter, the Complaint filed September 21, 1993 by Central Missouri State University IS GRANTED, in accordance with §615 (j)(3) (47 U.S.C. 535) of the Communications Act of 1934, as amended, and Tiger Cable Systems, Incorporated IS ORDERED to commence carriage of Station KMOS-TV on cable channel 6, forty-five (45) days from the release of this ORDER. This action is taken by the Chief, Cable Services Bureau, pursuant to authority delegated by §0.321 of the Commission's Rules.

FEDERAL COMMUNICATIONS COMMISSION

William H. Johnson, Deputy Chief
Cable Services Bureau

¹ We note that Tiger has not provided its headend coordinates to Station KMOS-TV as required by §76.58(b) of the Rules, despite Station KMOS-TV's letter received by Tiger on May 17,

1993 requesting carriage. Since no opposition to Station KMOS-TV's complaint has been filed, we accept petitioner's conclusion that Tiger's headend is located at Macks Creek, Missouri.

Before the
Federal Communications Commission
Washington, D.C. 20554

In re:

Complaint of Central Missouri
State University against
Osage Communications
Incorporated

CSR-4081-M

MOO283

Request for Carriage

MEMORANDUM OPINION AND ORDER

Adopted: May 5, 1994;

Released: June 7, 1994

By the Chief, Cable Services Bureau:

1. On September 21, 1993, a petition on behalf of Central Missouri State University, licensee of Station KMOS-TV (Educ., Ch. 6), Sedalia, Missouri, was filed with the Commission claiming that Osage Communications Incorporated ("Osage"), operator of a cable television system serving Buckner, Missouri, had declined to carry Station KMOS-TV, even though the Grade B contour of Station KMOS-TV encompasses the system's principal headend at Buckner,¹ and the station is therefore a "local" signal within the meaning of §5 of the Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, 106 Stat. 1460 (1992). Station KMOS-TV requests that the Commission not only order Osage to carry its signal on the cable system, but also order that the system carry it on Channel 6, the channel on which it broadcasts over-the-air. No opposition to this petition has been filed. Station KMOS-TV's petition establishes that it is entitled to carriage on its over-the-air broadcast channel, as it is permitted to do under §5 of the 1992 Cable Act. Since no other pleadings have been filed in this matter, the Complaint filed September 21, 1993, by Central Missouri State University IS GRANTED, in accordance with §615(j)(3) (47 U.S.C. 535) of the Communications Act of 1934, as amended, and Osage Communications Incorporated IS ORDERED to commence carriage of Station KMOS-TV on cable channel 6, forty-five (45) days from the release of this ORDER. This action is taken by the Chief, Cable Services Bureau, pursuant to authority delegated by §0.321 of the Commission's Rules.

FEDERAL COMMUNICATIONS COMMISSION

William H. Johnson, Deputy Chief
Cable Services Bureau

¹ We note that Osage has not provided its headend coordinates to Station KMOS-TV as required by §76.58 of the Rules, despite Station KMOS-TV's letter of May 28, 1993, requesting carriage.

Since no opposition to Station KMOS-TV's complaint has been filed, we accept petitioner's conclusion that Osage's headend is located at Buckner, Missouri.

Federal Communications Commission

DA-93-896

Before the
Federal Communications Commission
Washington, D.C. 20554

In re:

Complaint of Channel 5
Public Broadcasting, Inc.,
against WestStar Cable

CSR-3799-M
CA0730

Request for Carriage

MEMORANDUM OPINION AND ORDER

Adopted: July 13, 1993

Released: July 23, 1993

By the Chief, Mass Media Bureau:

1. On December 4, 1992, the mandatory carriage provisions of the Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, 106 Stat. 1460 (1992), became effective for certain noncommercial educational stations. On April 2, 1993, Channel 5 Public Broadcasting, Inc., licensee of Television Broadcast Station KNPB (Educ., Channel 5), Reno, Nevada, filed a complaint with the Commission requesting carriage by WestStar Cable, operator of a cable system serving Truckee, California. According to KNPB, its Grade B contour encompasses the principal headend of WestStar Cable at Truckee, and this community is also within fifty miles of Reno. Therefore, KNPB states that it is entitled to carriage by WestStar Cable, pursuant to §5 of the 1992 Cable Act.

2. On April 26, 1993, WestStar Communications 1 ("WestStar") filed an "Opposition" to KNPB's request stating that it is willing to carry the station once KNPB delivers, pursuant to §5(g)(4) of the 1992 Cable Act, a consistent and satisfactory quality signal to the cable system's principal headend, which WestStar states is actually on top of Ward Peak at Alpine Meadows. According to WestStar, KNPB has been aware of this problem for at least a year and previously sent one of its engineers to Ward Peak to monitor the signal. Furthermore, on April 14, 1993, at 2:00 pm P.D.T., Stan Mendes, WestStar's Chief Technician, found that KNPB's signal strength was less than -64 dBm at the Ward Peak headend. At the same time, Mr. Mendes also measured the signal strength of a translator at -55 dBm on Channel 54, which rebroadcasts KNPB from Peavine Mountain. WestStar notes that these results are below the standards set in the 1992 Cable Act for commercial UHF and VHF signals, and concludes that KNPB's petition must, therefore, be denied.

3. Section 615(g)(4) of the Communications Act of 1934, as amended, states that "a cable operator shall not be required to carry the signal of any qualified local

noncommercial educational television station which does not deliver to the cable system's principal headend a signal of good quality or a baseband video signal, as may be defined by the Commission." 47 U.S.C. 535(g)(4). Because the cable operator is in the best position to know whether a given NCE station is providing a good quality signal to the system's principal headend, we believe that the initial burden of demonstrating the lack of a good quality signal appropriately falls on the cable operator. In meeting this burden, the cable operator must show that it has used good engineering practices, as defined below, to measure the signal delivered to the headend.

4. With respect to the standard to be used to determine what constitutes a "good quality" signal, we note that the 1992 Cable Act failed to set a standard for either VHF or UHF non-commercial stations. However, the 1992 Cable Act did adopt a standard for determining the availability of VHF and UHF commercial stations at a cable system's headend. To establish the availability of a VHF commercial station's signal, the 1992 Cable Act set out a standard of -49 dBm at a cable system's headend. A standard of -45 dBm was established for UHF commercial station signals. Consistent with Congress' guidance with respect to VHF and UHF commercial station availability, we see no reason not to utilize the same standards as prima facie tests to initially determine, absent other evidence, whether VHF or UHF non-commercial stations place adequate signal levels over a cable system's principal headend.

5. In this instance, WestStar determined KNPB's signal strength to be below the requisite level for a VHF commercial station. We find, however, that the cable system failed to follow generally acceptable engineering practices in making its determination. To determine whether a certain level of signal is present, it is necessary to submit a series of measurements, not just one, as WestStar did. Generally, if the test results are less than -55 dBm for a VHF station, we believe that at least four readings must be taken over a two-hour period. Where the initial readings are between -55 dBm and -49 dBm, inclusive, we believe that the readings should be taken over a 24-hour period, with measurements no more than 4 hours apart to establish reliable test results.¹ In addition to the information required by our rules to be furnished to the affected station when there is a dispute over signal level measurements,² cable operators are expected to employ sound engineering measurement practices. Therefore, signal strength surveys should, at a minimum, include the following: 1) specific make and model numbers of the equipment used, as well as its age and most recent date(s) of calibration; 2) description(s) of the characteristics of the equipment used, such as antenna ranges and radiation patterns; 3) height of the antenna above ground level and whether the antenna was properly oriented; and 4) weather conditions and time of day when the tests were done. When measured against these criteria, we conclude that the test submitted by WestStar is insufficient to demonstrate that KNPB's signal is not of "good quality" at the cable system's headend.

¹ For UHF-TV stations, if the test results are less than -51 dBm, we believe that at least four readings must be taken over a two-hour period. Where the initial readings are between -51 dBm and -45 dBm, inclusive, we believe that the readings should be taken over a 24-hour period with measurements not

more than four hours apart to establish reliable test results.

² See Section 76.61 of the Commission's Rules.

³ Field strength measurements for the determination of Grade B contours shall follow the procedures set forth in §73.606 of the Commission's Rules.

6. Accordingly, the petition filed April 2, 1993, by Channel 5 Public Broadcasting, Inc., licensee of Station KNPB IS GRANTED, pursuant to §615(j)(3) (47 U.S.C. 535) of the Communications Act of 1934, as amended, and WestStar Communications I IS ORDERED to commence carriage of Station KNPB forty-six (46) days from the release date of this *Order* unless WestStar submits the engineering data required herein to support its assertion of poor signal quality from KNPB at WestStar's principal headend. This action is taken by the Chief, Mass Media Bureau, pursuant to authority delegated by §0.283 of the Commission's Rules.

FEDERAL COMMUNICATIONS COMMISSION

Roy J. Stewart
Chief, Mass Media Bureau

✓ 2/17/94

Federal Communications Commission

DA 93-1602

Before the
Federal Communications Commission
Washington, D.C. 20554

In re:

Complaint of Coast Community CSR-4044-M
College District against
Century Southwest Cable
Television

Request for Carriage

MEMORANDUM OPINION AND ORDER

Adopted: December 23, 1993; Released: February 4, 1994

By the Chief, Mass Media Bureau:

1. On August 27, 1993, a petition on behalf of Coast Community College District, licensee of Station KOCE-TV (Educ., Ch. 50), Huntington Beach, California, was filed with the Commission claiming that Century Southwest Cable Television ("Century"), operator of cable television systems serving Santa Monica, West Los Angeles, Beverly Hills, West Hollywood, Redondo Beach, Marina Del Rey, Eagle Rock, Van Nuys and Bell Canyon, California, had declined to carry the station, even though the city of license of KOCE-TV is within fifty miles of the systems' principal headends at Los Angeles and Redondo Beach¹ and the station is therefore a "local" signal within the meaning of §5 of the Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, 106 Stat. 1460 (1992). No opposition to this petition has been filed.

2. In support of its petition, KOCE-TV states that it has repeatedly requested carriage from Century (as well as the systems' previous owner) from as far back as April 18, 1989 without result despite the fact that KOCE-TV is carried on systems surrounding Century's. KOCE-TV argues that this makes it impossible for its signal to be received by Century's more than 150,000 subscribers, many of whom inquire as to why KOCE-TV's signal is unavailable. In letters dated April 29, 1993 and May 1, 1993 from Century, KOCE-TV indicates that it was advised "that inadequate signal strength and/or copyright liability may adversely affect your must carry rights on the system." KOCE-TV states, however, that Century supplies no signal strength measurements for the subject systems to substantiate its claims.² KOCE-TV maintains that its own tests indicate that adequate signal strength is present for both headends. In the event it is not, KOCE-TV asserts that it will provide a reasonable receiving antenna and amplification equipment.

¹ Century serves the listed communities from two separate headends. The first serves the communities surrounding Los Angeles (Santa Monica, West Los Angeles, Beverly Hills/West Hollywood, Marina del Rey, Eagle Rock, Van Nuys and Bell Canyon), and is located at Latitude 34°01'53", Longitude 118°27'49". The second serves Redondo Beach and is located at

3. KOCE-TV's petition establishes that it is entitled to carriage on the Los Angeles and Redondo Beach systems. Since no other pleadings have been filed in this matter, the complaint filed August 27, 1993, by Coast Community College District IS GRANTED, in accordance with §615(j)(3) (47 U.S.C. §535) of the Communications Act of 1934, as amended, and Century Southwest Cable Television IS ORDERED to commence carriage of KOCE-TV forty-five (45) days from the release date of this Order. This action is taken by the Chief, Mass Media Bureau, pursuant to authority delegated by §0.283 of the Commission's Rules.

FEDERAL COMMUNICATIONS COMMISSION

Roy J. Stewart
Chief, Mass Media Bureau

Latitude 33°50'50", Longitude 118°22'42".

² KOCE-TV points out a signal strength showing that Century included with its May 1, 1993 letter regarding its system in Ventura, California. However, KOCE-TV states, it has not requested carriage in Ventura.

Pusey

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

NOV 17 1993

IN REPLY REFER TO:
4620-PP

Nancy Dobbs, President
Rural California Broadcasting Corporation
5850 LaBath Avenue
Rohnert Park, California 94928

In re: Rural California Broadcasting
Corporation
(KRCB-TV)
CSR-3876-M ✓
CSR-3877-M

Dear Ms. Dobbs:

On July 2, 1993, you filed petitions for declaratory ruling, on behalf of Rural California Broadcasting Corporation, licensee of Station KRCB-TV (Educ., Ch. 22), Cotati, California, claiming that Viacom Cable had declined to carry KRCB-TV on its systems serving Geyser Peak and Big Rock, California. Subsequently, by letter dated October 25, 1993, you requested dismissal of these petitions as Viacom has agreed to carry the station on both systems.

In view of the foregoing, pursuant to §0.283 of the Commission's Rules, the petitions for declaratory ruling, filed July 2, 1992, are dismissed.

Sincerely,

Ronald Parver
Chief, Technical Services Branch
Cable Services Division
Mass Media Bureau

cc: George H. Shapiro, Esq.

Before the
Federal Communications Commission
Washington, D.C. 20554

In re:

Complaint of Rural California
Broadcasting Corporation
against Americable Inter-
national

CSR-3878-M
CA1293

Petition for Reconsideration

MEMORANDUM OPINION AND ORDER

Adopted: May 10, 1994;

Released: May 19, 1994

By the Chief, Cable Services Bureau:

1. On November 24, 1993, a petition for reconsideration was filed, on behalf of Americable International, Inc. ("Americable"), operator of a cable system serving Mare Island, California. Americable requests that the Commission reconsider its October 12, 1993, action¹ ordering the Mare Island system to carry Station KRCB-TV (Educ., Ch. 22), Cotati, California. A petition to deny this petition was filed December 2, 1993, on behalf of KRCB-TV.

2. In support of its request, Americable states that it never received a notice requesting carriage from KRCB-TV nor was it served with a copy of the complaint filed with the Commission. Indeed, it maintains that its first knowledge of KRCB-TV's request was when it was served a copy of the Order adopted on October 12, 1993. Since KRCB-TV did not fulfill the requirements of §76.56(a)(1) of the Commission's Rules in formally requesting carriage, Americable argues that it had no opportunity to respond on its own behalf. Further, Americable avers that KRCB-TV fails to deliver a good quality signal to its system's principal headend. Americable concludes, therefore, that it is not required to add KRCB-TV to its Mare Island system.

3. In its petition to deny, KRCB-TV submits a copy of its letter requesting carriage on Americable's Mare Island system, as well as a certified mail receipt indicating that it was received at the system's headquarters. KRCB-TV contends, therefore, that its right to carriage on the Mare Island system has been established. In addition, KRCB-TV maintains, not only is Americable's allegation of poor signal quality unsubstantiated, it is also overdue. As it believes that its signal is receivable at the system's headend, KRCB-TV requests that the Commission again order Americable to carry its station.

4. We are not persuaded by the arguments raised by Americable. KRCB-TV has adequately shown that it formally requested carriage on the Mare Island system by letter dated November 11, 1992. Further, our records in-

dicating that Americable was served a copy of KRCB-TV's must carry complaint on July 1, 1993. Therefore, there is every indication that Americable was adequately aware of KRCB-TV's request.

5. With regard to the issue of poor signal quality raised by Americable, §615(g)(4) of the Communications Act of 1934, as amended, states that "a cable operator shall not be required to carry the signal of any qualified local noncommercial educational television station which does not deliver to the cable system's principal headend a signal of good quality or a baseband video signal, as may be defined by the Commission." 47 U.S.C. 535(g)(4). Because the cable operator is in the best position to know whether a given NCE station is providing a good quality signal to the system's principal headend, we believe that the initial burden of demonstrating the lack of a good quality signal appropriately falls on the cable operator. In meeting this burden, the cable operator must show that it has used good engineering practices, as defined below, to measure the signal delivered to the headend.

6. With respect to the standard to be used to determine what constitutes a "good quality" signal, we note that the 1992 Cable Act failed to set a standard for either VHF or UHF noncommercial stations. However, the 1992 Cable Act did adopt a standard for determining the availability of VHF and UHF commercial stations at a cable system's headend. To establish the availability of a VHF commercial station's signal, the 1992 Cable Act set out a standard of -49 dBm at a cable system's headend. A standard of -45 dBm was established for UHF commercial station signals. Consistent with Congress' guidance with respect to VHF and UHF commercial station availability, we see no reason not to utilize the same standards as *prima facie* tests to initially determine, absent other evidence, whether a VHF or UHF noncommercial station places an adequate signal level over a cable system's principal headend.

7. In this instance, Americable has failed to provide any engineering data to corroborate its claim of poor signal quality from KRCB-TV at its principal headend. Cable systems are required to follow generally acceptable engineering practices in making such a determination. To determine whether a certain level of signal is present, it is necessary to submit a series of measurements. Generally, if the test results are less than -51 dBm for a UHF station, we believe that at least four readings must be taken over a two-hour period. Where the initial readings are between -51 dBm and -45 dBm, inclusive, we believe that the readings should be taken over a 24-hour period with measurements not more than four hours apart to establish reliable test results.²

8. In addition to the information required by our rules to be furnished to the affected station when there is a dispute over signal level measurements, cable operators are expected to employ sound engineering measurement practices. Therefore, signal strength surveys should, at a minimum, include the following: 1) specific make and model numbers of the equipment used, as well as its age and most recent date(s) of calibration; 2) description(s) of the characteristics of the equipment used, such as antenna ranges and radiation patterns; 3) height of the antenna above

¹ Rural California Broadcasting Corporation against Americable International, 8 FCC Rcd 7600 (1993).

² For VHF TV stations, if the test results are less than -55 dBm, we believe that at least four readings must be taken over a

two-hour period. Where the initial readings are between -55 dBm and -49 dBm, inclusive, we believe that the readings should be taken over a 24-hour period, with measurements no more than 4 hours apart to establish reliable test results.

ground level and whether the antenna was properly oriented; and 4) weather conditions and time of day when the tests were done. When measured against these criteria, we cannot conclude that KRCB-TV does not provide a good quality signal at Americable's Mare Island principal headend.

9. In light of the above, therefore, pursuant to §§0.321 and 1.106 of the Commission's Rules, the petition for reconsideration, filed November 24, 1993, on behalf of Americable International, IS DENIED and Americable IS ORDERED to commence carriage of Station KRCB-TV within forty-five (45) days of the release date of this order unless it submits the engineering data required herein within fifteen (15) days to support its assertion of poor signal quality from KRCB-TV at Americable's principal headend.

FEDERAL COMMUNICATIONS COMMISSION

William H. Johnson, Deputy Chief
Cable Services Bureau

FEDERAL COMMUNICATIONS COMMISSION

Before the
Federal Communications Commission
Washington, D.C. 20554

Roy J. Stewart
Chief, Mass Media Bureau

In re:

Complaint of Rural California CSR-3878-M
Broadcasting Corporation CA1293
against Americable International

Request for Carriage

MEMORANDUM OPINION AND ORDER

Adopted: October 12, 1993; Released: October 25, 1993

By the Chief, Mass Media Bureau:

1. On July 2, 1993, a petition on behalf of Rural California Broadcasting Corporation, licensee of Station KRCB-TV (Educ., Ch. 22), Cotati, California, was filed with the Commission claiming that Americable International ("Americable"), operator of a cable television system serving Mare Island, California, had declined to carry the station, even though Cotati is within fifty miles of the system's principal headend at Mare Island and this station is, therefore, a "local" signal within the meaning of Section 3 of the Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, 106 Stat. 1460 (1992). KRCB-TV requests that the Commission not only order Americable to carry its signal, but also order that the system carry it on channel 22, the channel on which it broadcasts over-the-air. No opposition to this petition has been filed.¹

2. KRCB-TV's petition establishes that it is entitled to carriage on the Mare Island cable system, and it has requested carriage on its over-the-air broadcast channel, as it is permitted to do under §5 of the 1992 Cable Act. Since no other pleadings have been filed in this matter, the complaint filed July 2, 1993, by Rural California Broadcasting Corporation IS GRANTED, in accordance with Section 615(j)(3) (47 U.S.C. 535) of the Communications Act of 1934, as amended, and Americable International IS ORDERED to commence carriage of KRCB-TV on cable channel 22 forty-six (46) days from the release date of this Order. This action is taken by the Chief, Mass Media Bureau, pursuant to authority delegated by Section 0.283 of the Commission's Rules.

¹ On April 8, 1993, the United States District Court of the District of Columbia issued a decision in the litigation involving *Turner Broadcasting System, Inc., et al., v. Federal Communications Commission*, Civil Action No. 92-2247 (D.D.C. April 8,

1993), which upheld the provisions of the 1992 Cable Act that had been challenged as violating plaintiffs' constitutional rights and terminated the 120 day *Sandsill* Order previously issued in this case.

Before the
Federal Communications Commission
Washington, D.C. 20554

In re:

Complaint of Rural California CSR-3879-M
Broadcasting Corporation against CA0388
DR Partners d/b/a Donrey
Cablevision

Request for Carriage

MEMORANDUM OPINION AND ORDER

Adopted: November 9, 1993; Released: November 24, 1993

By the Chief, Mass Media Bureau:

1. On July 2, 1993, a petition on behalf of Rural California Broadcasting Corporation, licensee of Station KRCB-TV (Educ., Ch. 22), Cotati, California, was filed with the Commission claiming that DR Partners d/b/a Donrey Cablevision ("Donrey"), operator of a cable television system serving Vallejo, California, had declined to carry the station, even though Cotati is within fifty miles of the system's principal headend located near Vallejo at latitude 38°06'38", longitude 122°10'26", and is therefore a "local" signal within the meaning of Section 5 of the Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, 106 Stat. 1460 (1992). KRCB-TV requests that the Commission not only order Donrey to carry its signal, but also order the system to carry it on Channel 22, the channel on which it broadcasts over-the-air. An opposition to this petition was filed on August 5, 1993 on behalf of Donrey to which KRCB-TV responded on August 26, 1993.

2. Initially, by fax dated December 4, 1992, addressed to KRCB-TV, Donrey stated that it was already meeting its NCE carriage obligations and that it also believed KRCB-TV's programming substantially duplicates that of the following four NCE stations it already carries: KOED (Educ., Ch. 9), San Francisco, California; KCSM-TV (Educ., Ch. 60), San Mateo, California; KTEH (Educ., Ch. 54), San Jose, California; and KVIE (Educ., Ch. 6), Sacramento, California. Further, in an April 30, 1993 letter declining to carry KRCB-TV, Donrey contends that KRCB-TV fails to consistently deliver a -45 dBm quality signal to the system's headend. It states that it used a Tektronix Model 2710 Spectrum Analyzer with a UHF antenna peaked toward KRCB-TV prior to the measurement. In its opposition, Donrey indicates that it carried KRCB-TV from October 1990 to January 1992, but experienced so many instances of signal loss without receiving a satisfactory explanation or solution to the problem that it dropped the station. After the passage of the 1992 Cable Act, Donrey states that KRCB-TV demanded carriage, but made no response to the issue of signal quality until after Donrey sent information on the signal quality test made at the system's headend. It maintains that KRCB-TV's request for further information on the matter was followed immediately by the filing of its

complaint with the Commission. Further, Donrey states that by letter dated July 30, 1993, KRCB-TV contended that the signal problems were the fault of Donrey, that the UHF parabolic antenna Donrey used in its test was peaked toward Television Broadcast Station KFTY (Ind., Ch. 50), Santa Rosa, California and not KRCB-TV, and that the "low signal levels reported by Donrey are related to the use of the directional parabolic antenna which cannot simultaneously receive both KFTY-TV and KRCB-TV at optimum levels." Donrey maintains, however, that despite the fact that its parabolic UHF antenna was directed toward KRCB-TV prior to its removal from the system and retained in that orientation since, the intermittent signal loss still continues. Finally, Donrey concludes that the filing of KRCB-TV's complaint was premature, particularly in the instant situation where the parties involved are attempting to work out a solution. In light of the above, Donrey requests that the Commission deny KRCB-TV's complaint.

3. In response to Donrey's earlier fax and letter, KRCB-TV disputes Donrey's claim of substantial duplication. In addition, KRCB-TV states that Donrey did in fact carry its signal from approximately October 1990 until February 1992, but that it was dropped suddenly and without prior notification even though the system has an active 62 channel capacity. KRCB-TV feels that its signal was dropped for marketing reasons and not, as claimed by Donrey, due to technical or engineering problems due to a poor quality signal. In its reply to the opposition, KRCB-TV argues that Donrey's pleading was not filed within the requisite 20 day period required by Section 76.7 of the Rules and should not be accepted. It goes on to state that it was its understanding, through previous contact with Donrey's engineers, that prior to April 30, 1993 the signal difficulties had been vastly improved. It was only after that date, claims KRCB-TV, that Donrey again raised this issue. However, the station reiterates its belief that the alleged low signal levels reported by Donrey are due to a fault in the system's directional parabolic antenna.

4. Initially, we note that on March 11, 1993, the Commission adopted a *Report and Order in M.M. Docket No. 92-259*, 8 FCC Rcd 2965, 3012 (1993), which included a new Section 76.56 of the Commission's Rules concerning cable systems' signal carriage obligations, including a note which explained that for NCE stations, "... a station will be deemed to 'substantially duplicate' the programming of another station if it broadcasts the same programming, simultaneous or nonsimultaneous, for more than 50 percent of prime time, as defined in Section 76.5(n), and more than 50 percent outside of prime time over a three month period." Donrey's December 4, 1992 fax, therefore, is insufficient to substantiate its allegation of substantial duplication.

5. Moreover, §615(g)(4) of the Communications Act of 1934, as amended, states that "a cable operator shall not be required to carry the signal of any qualified local noncommercial educational television station which does not deliver to the cable system's principal headend a signal of good quality or a baseband video signal, as may be defined by the Commission." 47 U.S.C. 535(G)(4). Because the cable operator is in the best position to know whether a given NCE station is providing a good quality signal to the system's principal headend, we believe that the initial burden of demonstrating the lack of a good quality signal appropriately falls on the cable operator. In meeting this

burden, the cable operator must show that it has used good engineering practices, as defined below, to measure the signal delivered to the headend.

6. With respect to the standard to be used to determine what constitutes a "good quality" signal, we note that the 1992 Cable Act failed to set a standard for either VHF or UHF noncommercial stations. However, the 1992 Cable Act did adopt a standard for determining the availability of VHF and UHF commercial stations at a cable system's headend. To establish the availability of a VHF commercial station's signal, the 1992 Cable Act set out a standard of -49 dBm at a cable system's headend. A standard of -45 dBm was established for UHF commercial station signals. Consistent with Congress' guidance with respect to VHF and UHF commercial station availability, we see no reason not to utilize the same standards as *prima facie* tests to initially determine, absent other evidence, whether VHF or UHF non-commercial stations place adequate signal levels over a cable system's principal headend.

7. In this instance, Donrey determined KRCB-TV's signal strength to be below the requisite level for a UHF commercial station. We find, however, that the cable system failed to follow generally acceptable engineering practices in making its determination. Generally, if the test results are less than -51 dBm for a UHF station, we believe that at least four readings must be taken over a two hour period. Where the initial readings are between -51 dBm and -45 dBm, inclusive, we believe that the should be taken over a 24-hour period with measurements not more than four hours apart to establish reliable test results.¹

8. In addition to the information required by our rules to be furnished to the affected station when there is a dispute over signal level measurements, cable operators are expected to employ sound engineering measurement practices. Therefore, signal strength surveys should, at a minimum, include the following: 1) specific make and model numbers of the equipment used, as well as its age and most recent date(s) of calibration; 2) description(s) of the characteristics of the equipment used, such as antenna ranges and radiation patterns; 3) height of the antenna above ground level and whether the antenna was properly oriented; and 4) weather conditions and time of day when tests were done. When measured against these criteria, we conclude that the test submitted by Donrey is insufficient to demonstrate that KRCB-TV's signal is not of "good quality" at the cable system's headend.

9. Finally, Donrey's contention that, as a system with more than 36 channels, it has met its NCE carriage obligations pursuant to Section 615 of the 1992 Cable Act because it is already carrying four NCE stations, is in error. Section 76.56(a)(iii) of the Rules requires that all cable systems with more than 36 channels must carry a *minimum* of three NCE channels, but it does not preclude requiring such a system to carry additional NCE channels. Indeed, paragraph 11 of the *Report and Order in MM Docket No. 92-259, supra*, specifically states: "[s]ystems with a capacity of more than 36 usable activated channels are *generally required* to carry the signal of *all* qualified local NCE stations requesting carriage" (emphasis supplied). The only

exception to this requirement is when there is proven substantial programming duplication between local NCE stations.

10. KRCB-TV's petition establishes that it is entitled to carriage on the Vallejo cable system, and it has requested carriage on its over-the-air broadcast channel, as it is permitted to do under Section 5 of the 1992 Cable Act. Accordingly, the petition filed July 2, 1993, by Rural California Broadcasting Corporation IS GRANTED, pursuant to Section 615(j)(3) (47 U.S.C. 535) of the Communications Act of 1934, as amended, and Donrey Cablevision IS ORDERED to commence carriage of KRCB-TV on Channel 22 forty-six (46) days from the release date of this Order unless Donrey submits the engineering data required herein to support its assertion of poor signal quality from KRCB-TV at Donrey's principal headend. This action is taken if by the Chief, Mass Media Bureau, pursuant to authority delegated by Section 0.283 of the Commission's Rules.

FEDERAL COMMUNICATIONS COMMISSION

Roy J. Stewart
Chief, Mass Media Bureau

¹ For VHF-TV stations, if the test results are less than -55 dBm for a VHF station, we believe that at least four readings must be taken over a two hour period. Where the initial readings are between -55 dBm and -49 dBm, inclusive, we believe

that the readings should be taken over a 24 hour period, with measurements no more than 4 hours apart to establish reliable test results.

FEDERAL COMMUNICATIONS COMMISSION

Before the
Federal Communications Commission
Washington, D.C. 20554

Roy J. Stewart
Chief, Mass Media Bureau

In re:

Complaint of Rural California
Broadcasting Corporation
against Century Cable

CSR-3880-M
CA0021

Request for Carriage

MEMORANDUM OPINION AND ORDER

Adopted: October 12, 1993; Released: October 25, 1993

By the Chief, Mass Media Bureau:

1. On July 2, 1993, a petition on behalf of Rural California Broadcasting Corporation, licensee of Station KRCB-TV (Educ., Ch. 22), Cotati, California, was filed with the Commission claiming that Century Cable ("Century"), operator of a cable television system serving San Pablo, California, had declined to carry the station, even though Cotati is within fifty miles of the system's principal headend located near San Pablo at latitude 37°55'41" longitude 122°17'26", and the station is therefore a "local" signal within the meaning of Section 5 of the Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, 106 Stat. 1460 (1992). KRCB-TV requests that the Commission not only order Century to carry its signal, but also order that the system carry it on channel 22, the channel on which it broadcasts over-the-air. No opposition to this petition has been filed.¹

2. KRCB-TV's petition establishes that it is entitled to carriage on the San Pablo cable system, and it has requested carriage on its over-the-air broadcast channel, as it is permitted to do under §5 of the 1992 Cable Act. Since no other pleadings have been filed in this matter, the complaint filed July 2, 1993, by Rural California Broadcasting Corporation IS GRANTED, in accordance with Section 615(j)(3) (47 U.S.C. 535) of the Communications Act of 1934, as amended, and Century Cable IS ORDERED to commence carriage of KRCB-TV on cable channel 22 forty-six (46) days from the release date of this Order. This action is taken by the Chief, Mass Media Bureau, pursuant to authority delegated by Section 0.283 of the Commission's Rules.

¹ On April 8, 1993, the United States District Court of the District of Columbia issued a decision in the litigation involving *Turner Broadcasting System, Inc., et al., v. Federal Communications Commission*, Civil Action No. 92-2247 (D.D.C. April 8,

1993), which upheld the provisions of the 1992 Cable Act that had been challenged as violating plaintiffs' constitutional right and terminated the 120 day *Standstill Order* previously issued in this case.

WORKING FILE

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

NOV 10, 1993

IN REPLY REFER TO:
4620-PP

Nancy Dobbs, President
Rural California Broadcasting Corp.
5850 LaBath Avenue
Rohnert Park, California 94928

In re: Rural California Broadcasting
Corporation
(KRCB-TV)
CSR-3881-M; CA0107

Dear Ms. Dobbs:

On July 2, 1993, you filed a petition for declaratory ruling, on behalf of Rural California Broadcasting Corporation, licensee of Station KRCB-TV (Educ., Ch. 22), Cotate, California, claiming that Chambers Communications had declined to carry KRCB-TV on its system serving Novato, California. Subsequently, by letter dated October 25, 1993, you requested dismissal of this petition as Chambers has agreed to carry the station.

In view of the foregoing, pursuant to §0.283 of the Commission's Rules, the petition for declaratory ruling, filed July 2, 1993, is dismissed.

Sincerely,

Ronald Parver
Chief, Technical Services Branch
Cable Services Division
Mass Media Bureau

cc: Sylvia Sycamore, Sr, Vice President

Before the
Federal Communications Commission
Washington, D.C. 20554

In re:

Complaint of Rural California CSR-4249-M
Broadcasting Corporation against CA0241
TCI Cablevision of California

Request for Carriage

MEMORANDUM OPINION AND ORDER

Adopted: December 12, 1994; Released: December 21, 1994

By the Cable Services Bureau:

1. On March 29, 1994, a petition on behalf of Rural California Broadcasting Corporation, licensee of Station KRCB-TV (Educ., Ch. 22), Cotati, California, was filed with the Commission claiming that TCI Cablevision of California ("TCI"), operator of a cable television system serving Martinez, California, had declined to carry the station, even though the Grade B contour of KRCB-TV encompasses the system's principal headend located in Martinez at north latitude 37°41'36" and west longitude 122°07'21", and the station is therefore a "local" signal within the meaning of Section 5 of the Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, 106 Stat. 1460 (1992). KRCB-TV requests that the Commission not only order TCI to carry its signal, but also order the system to carry it on Channel 22, the channel on which it broadcasts over-the-air. An opposition to this petition was filed May 9, 1994, on behalf of TCI to which KRCB-TV has responded.

2. In support of its petition, KRCB-TV indicates that it was informed by TCI on May 3, 1993, that the system believed KRCB-TV's signal strength to be inadequate and that therefore the station was not required to be carried. Although KRCB-TV states that it requested more detailed information regarding the signal strength tests relied upon by TCI, the system failed to respond.

3. In its opposition, TCI states that its principal headend is located in Briones, California, and not Martinez as indicated by KRCB-TV. Further, it states that its system engineer conducted a signal quality survey on April 21, 1993, using a Wavetek Sam IIID, calibrated April 16, 1993. It maintains that this survey determined that KRCB-TV provides a signal level of -61.0 dBm, well below the Commission standard. In addition to its signal being weak, TCI avers that KRCB-TV's picture quality is also deficient due to excessive noise and multipath interference. Because of these deficiencies, therefore, TCI claims that KRCB-TV does not qualify for carriage on its system.

4. In reply, KRCB-TV argues that TCI's opposition should be dismissed as untimely because it was submitted a full 45 days after the complaint was filed. In any event, KRCB-TV maintains that TCI has still failed to provide all

of the requisite information regarding its signal strength test and has not followed generally-accepted engineering practices in conducting its test.

5. Section 615(g)(4) of the Communications Act of 1934, as amended, states that "a cable operator shall not be required to carry the signal of any qualified local noncommercial educational television station which does not deliver to the cable system's principal headend a signal of good quality or a baseband video signal, as may be defined by the Commission." 47 U.S.C. 535(G)(4). Because the cable operator is in the best position to know whether a given NCE station is providing a good quality signal to the system's principal headend, we believe that the initial burden of demonstrating the lack of a good quality signal appropriately falls on the cable operator. In meeting this burden, the cable operator must show that it has used good engineering practices, as defined below, to measure the signal delivered to the headend.

6. With respect to the standard to be used to determine what constitutes a "good quality" signal, we note that the 1992 Cable Act failed to set a standard for either VHF or UHF noncommercial stations. However, the 1992 Cable Act did adopt a standard for determining the availability of VHF and UHF commercial stations at a cable system's headend. To establish the availability of a VHF commercial station's signal, the 1992 Cable Act set out a standard of -49 dBm at a cable system's headend. A standard of -45 dBm was established for UHF commercial station signals. Consistent with Congress' guidance with respect to VHF and UHF commercial station availability, we see no reason not to utilize the same standards as *prima facie* tests to initially determine, absent other evidence, whether VHF or UHF non-commercial stations place adequate signal levels over a cable system's principal headend.

7. In this instance, TCI determined KRCB-TV's signal strength to be below the requisite level for a VHF commercial station. We find, however, that the cable system failed to following generally acceptable engineering practices in making its determination. Generally, if the test results are less than -55 dBm for a VHF station, we believe that at least four readings must be taken over a two hour period. Where the initial readings are between -55 dBm and -49 dBm, inclusive, we believe that the readings should be taken over a 24 hour period, with measurements no more than 4 hours apart to establish reliable test results.

8. In addition to the information required by our rules to be furnished to the affected station when there is a dispute over signal level measurements, cable operators are expected to employ sound engineering measurement practices. Therefore, signal strength surveys should, at a minimum, include the following: 1) specific make and model numbers of the equipment used, as well as its age and most recent date(s) of calibration; 2) description(s) of the characteristics of the equipment used, such as antenna ranges and radiation patterns; 3) height of the antenna above ground level and whether the antenna was properly oriented; and 4) weather conditions and time of day when tests were done. When measured against these criteria, we conclude that the data submitted by TCI is insufficient to demonstrate that KRCB-TV's signal is not of "good quality" at the cable system's headend.

9. KRCB-TV's petition establishes that it is entitled to carriage on the Martinez, California, cable system, and it has requested carriage on its over-the-air broadcast channel as it is permitted to do under §5 of the 1992 Cable Act. Accordingly, the petition filed March 29, 1994, by Rura

California Broadcasting Corporation IS GRANTED, pursuant to §615(j)(3) (47 U.S.C. 535) of the Communications Act of 1934, as amended, and TCI Cablevision of California IS ORDERED to commence carriage of KRCB-TV on cable channel 22 forty-five days from the release date of this Order unless TCI submits within fifteen days the engineering data required herein to support its assertion of poor signal quality from KRCB-TV at TCI's principal headend. This action is taken by the Chief, Cable Services Bureau, pursuant to authority delegated by §0.321 of the Commission's Rules.

FEDERAL COMMUNICATIONS COMMISSION

William H. Johnson
Deputy Chief, Cable Services Bureau